



An Comhchoiste um Nithe a Bhaineann le Míchumas

I dtreo reachtaíocht náisiúnta a chomhchuibhiú le
Coinbhinsiún na Náisiún Aontaithe ar Chearta Daoine
faoi Mhíchumas

Eanáir 2024

Joint Committee on Disability Matters

Towards harmonisation of national legislation with
the United Nations Convention on the Rights of
Persons with Disabilities

January 2024

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Related information

Publications

All publications for this committee are available on the [Oireachtas website](#)

Committee videos

Footage of Committee proceedings can be found on the [Committee videos page](#).

Contact details

The contact details for the Committee can be found on the [Committee page](#).

Terms of reference

Read the [terms of reference](#) for the Committee.

Committee Membership

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Cathaoirleach's Foreword

The UN Convention on the Rights of Persons with Disabilities is transformative as it requires a state to apply the human rights principles from the UN Declaration on Human Rights to the situation of persons with disabilities. The Convention calls the State to move beyond anti-discrimination legislation and harmonise all national laws with the obligations of the Convention.

The Committee has a remit to monitor implementation of the Convention and progress of the drafting and initiation of required and relevant legislation. The Committee held a series of public meetings and received several submissions on the harmonisation of legislation with the Convention which have informed this report.

Ireland ratified the Convention in 2018 and has yet to ratify the Optional Protocol. The Committee continue to call for the ratification of the Optional Protocol which would support a more effective implementation of the Convention.

More action is needed by the State to mobilise cross sectoral actors and establish mechanisms to produce rights-based public policy and truly embed the rights of people with disabilities in Irish society.

The Committee have collectively and actively advocated for the rights of people with disabilities, particularly regarding raising awareness and mainstreaming rights across Irish Society. However, a lack of understanding of the Convention across public bodies and sectors, prevails.

The Committee recognises all the work that relevant Government Departments have undertaken over recent years in developing and revising legislation to allow for greater alignment with the provisions of the Convention.

I would like to thank all the stakeholders who attended meetings and those who made submissions to the Committee for their valuable engagement. Thank you to Committee Members for all their hard work. I also wish to acknowledge the assistance of the Committee support team in preparing this report.

Michael Moynihan T.D.

Cathaoirleach to the Committee on Disability Matters

Content and format of report

The Office of the United Nations High Commissioner for Human Rights (OHCHR) is developing indicators for the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD/Convention) which are beneficial to benchmark progress of a state's implementation of the Convention¹.

The structural indicators relating to legislative harmonisation that a state must introduce to align with the UNCRPD have been reproduced in this report in a table under each article of the Convention. The Committee's overall view of Ireland's progress against these indicators has also been highlighted.

Conclusions and recommendations are made under each article of the Convention, in line with the OHCHR indicators and previous recommendations of the UNCRPD Committee to other State Parties where there is a similarity to the position in Ireland. The need for better implementation of existing legislation or development of new legislative provisions is also highlighted.

Pre-Legislative scrutiny reports from other Oireachtas Committees have also informed this report, which are referenced within the document.

It is important to note that this information is not comprehensive and is presented as a summary for readers. In this regard, it is not, and should not be taken as, a legal interpretation of any of the referenced legislation.

The below table highlights the legend used throughout this report;

Progress legend
Good progress
Limited Progress
No progress
Regressive

¹ Office of the United Nations High Commissioner for Human Rights, 'Human Rights indicators on the Convention on the Rights of Persons with Disabilities in support of a disability inclusive 2030 Agenda for Sustainable Development'. Available at: [Human Rights indicators on the Convention on the Rights of Persons with Disabilities in support of a disability inclusive 2030 Agenda for Sustainable Development | OHCHR](#) (Accessed 08 January 2024)

Engagement with stakeholders

In line with its Terms of Reference, available in [related information](#), the Joint Committee on Disability Matters (the Committee) considers the UNCRPD Implementation Plan, national strategies including the National Disability Inclusion Strategy (NDIS) and sector strategies for the purpose of monitoring implementation of the Convention, as well as the progress of initiation and drafting of required legislation.

The Committee undertook a module of public meetings, 20 and 27 April 2023 examining a rights-based approach to disability legislation and sought submissions from various stakeholders.

In addition, much of testimony, evidence, and submissions to many other of the Committee public meetings are also relevant. Please see [Appendix 1](#) and [Appendix 2](#) for a list of all public meetings and submissions that informed this report.

Executive Summary

The UN Convention on the Rights of Persons with Disabilities calls on the State to move beyond anti-discrimination legislation and harmonise all national laws with the obligations of the Convention and ensure appropriate economic and social supports to achieve equal access, participation, and outcomes in all areas of service provision and employment, including independent needs assessment, services, advocacy, and redress.

Ireland already has a well-developed infrastructure for mainstreaming human rights for people with disabilities. The Disability Act 2005 provides the basis through the potential for the re-establishing sectoral planning, to ensure effective mainstreaming with the outcomes of the Convention, whether transport accessibility, Universal Designed housing, community inclusion, employment, or rights-based health.

The Public Sector Equality and Human Rights Duty 2014 also has the potential, if strengthened, to ensure that all public bodies are assessing human rights issues of their service users through meaningful consultation, and undertaking equality and human rights assessments on the legislation, policies, and services that they are responsible for to ensure alignment with the Convention. Disabled Persons Organisations must be consulted with by public bodies under this duty.

The Committee realise there is much work to be undertaken to improve the process of public consultation on legislation and policy in Ireland. All proposed legislation must be subject to public consultation before introduction in Irish Parliament, and fully inclusive and accessible to all. This is vital for a truly inclusive democracy.

There is also considerable revisioning and mainstreaming of disability across health, housing, and community, to enable the outcomes of choice in independent living with adequate supports, if needed, for people with disabilities. A right to independent living, a Public Sector Inclusion Objective that places a duty on all public bodies with regard to Article 19 of the UNCRPD, and a National Accessibility Act with national targets for Ireland to become truly accessible, will begin to develop a culture of human rights for people with disabilities in Ireland.

Summary of progress against indicators

Article Number	Article	Indication of overall progress*
1- 4	General provisions	Limited Progress
5	Equality and non-discrimination	Good Progress
6	Women with disabilities	Good Progress
7	Children with disabilities	Limited Progress
8	Awareness raising	Good Progress
9	Accessibility	No Progress
10	Right to Life	No Progress
11	Situations of risk and humanitarian emergencies	No Progress
12	Equal recognition before the law	Good Progress
13	Access to justice	Limited Progress
14	Liberty and security of person	No Progress
15, 17	Freedom of torture and Protecting the integrity of the person**	No Progress
16	Freedom from exploitation, violence, and abuse	Limited Progress
18	Liberty of movement and nationality	No Progress
19	Living independently and being included in the community	Regressive
20	Personal mobility	No Progress
21	Freedom of expression and opinion, and access to information	No Progress
22	Respect for privacy	No Progress

23	Respect for home and the family	No Progress
24	Education	Limited Progress
25	Health	Regressive
26	Habilitation and rehabilitation	Limited Progress
27	Work and employment	Limited Progress
28	Adequate standard of living and social protection	Limited Progress
29	Participation in political and public life	Limited Progress
30	Participation in cultural life, recreation, leisure, and sport	Limited Progress
31	Statistics and data collection	No Progress
32	International cooperation	Limited Progress
33	National implementation and monitoring	Limited Progress

* Indication of progress is not comprehensive and is presented as a summary for readers and should not be taken as, a legal interpretation of any of the referenced legislation.

** Both these articles are included under the one table in the OHCHR indicators.

Introduction

1. Ireland ratified the UNCRPD on the 20 March 2018. The Irish Government is committed to the principles of the Convention, to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all people with disabilities and to promote respect for their inherent dignity.
2. A human right is about a long-term guarantee, a set of structural claims, that include a duty not to deprive a right, a duty to protect from deprivation of rights, and a duty to provide aid to those who are deprived of their rights². The OHCHR structural indicators measure the acceptance, intent and commitment to human rights and reflect enactment of legal instruments and the adoption of policies for the implementation of human rights³.
3. Structural discrimination refers to rules, norms, routines, patterns of attitudes and behaviour in institutions and other societal structures that represent obstacles to groups or individuals in achieving the same rights and opportunities that are available to the majority of the population⁴. The prevalence of a medical model of disability which treats people with disabilities as medical objects who need to be cared for, can sustain the operation of these obstacles in society and the exclusion and discrimination of people with disabilities.
4. Implementation of the UNCRPD requires a significant level of awareness raising towards the human rights model of disability that views people with disabilities as citizens, capable of contributing to society, and as rights holders. People with disabilities, also need access to human rights training to support capacity building considering many individuals have lived segregated lives.
5. The Committee are aware that the Convention requires State Parties to take measures to realise economic, social and cultural rights progressively, using the greatest amount of available resources to do so, and this obligation acknowledges

² P. Uvin (2004), *'Human Rights and Development'*, Kumarian Press:Bloomfield.

³ Office of the United Nations High Commissioner for Human Rights (2020), *'Frequently Asked Questions on the human rights indicators on the Convention on the Rights of Persons with Disabilities (CRPD)'*. Available at: [CRPD Indicators FAQs \(ohchr.org\)](https://www.ohchr.org/en/crpdc/indicators/FAQs) Accessed 08 January 2024.

⁴ Najcevska, M. (2009, October 18), *'Structural Discrimination – Definition, Approaches and Trends'*, Presented at the 8th Session of the UN Working Group of Experts on People of African Descent. Available here: [Link](#) Accessed 08 January 2024.

that it often takes time to realise many of these rights fully⁵. The duty of progressive realisation also entails a presumption against retrogressive measures in the enjoyment of economic, social and cultural rights⁶. The Committee are mindful of this duty in its consideration of the articles.

6. The Committee are also aware how important the realisation of economic, social, and cultural rights are to enable people with disabilities live independent lives in the community. A movement towards human rights economy, especially post Covid-19 pandemic, is crucial to reinforce and ensure that development, economic, industrial and trade policies are guided by human rights norms and standards and that no one is left behind⁷.
7. The Committee have collectively and actively advocated for the rights of people with disabilities, particularly with regard to raising awareness and mainstreaming the rights of people with disabilities across Oireachtas Committees accountability and legislative process. People with disabilities and Disabled Persons Organisations (DPOs) must be consulted on policy and legislation to implement the Convention and there has been a failure with regard to the level of consultation in line with the spirit of Article 4 (3) of the UNCPRD. The Committee make recommendations under Articles 1- 4 to improve mainstreaming the rights of people with disabilities in the legislative process. It is important that measures are introduced that ensure standard consultation by all public bodies.
8. Ratification of the Optional Protocol to the Convention (the Protocol) supports effective implementation of the UNCPRD and therefore Ireland's delay in ratifying the Protocol may impact effective implementation. The Department of Children, Equality, Disability, Integration and Youth (DCEDIY) is scoping the requirements for earlier ratification of the Protocol with its legal advisors.

⁵ United Nations Department of Economic and Social Affairs Disability, 'Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities'. Available at: [Chapter Two: The Convention in detail – Obligations of States parties under the Convention | United Nations Enable](#). Accessed 08 January 2024.

⁶ United Nations Committee on the Rights of Persons with Disabilities, (2017), CRPD/C/GC/5, 'General comment on article 19: Living independently and being included in the community'.

⁷ Universal Periodic Review Info (2023), 'Integrating a human rights economy in public policies including side event sponsored by the Permanent Mission of Portugal, entitled "Towards a human rights economy: UPR recommendations for ESCR"'. Available at: [Integrating a human rights economy in public policies | UPR info \(upr-info.org\)](#). Accessed 08 January 2024.

9. The delivery of human rights for people with disabilities was considered under the NDIS 2017-2022. However, not all articles of the Convention were aligned with this strategy and the Disability Stakeholders Group (DSG) highlighted to the Committee the impact of the closing of this strategy in 2022 without a successor strategy in place. The Committee are concerned about the impact of this on the realisation of rights and improving the lives of people with disabilities. DCEDIY intend to publish the successor to the NDIS which will also include UNCRPD implementation in early 2024 which should highlight how the State plans to implement all articles of the Convention.
10. As part of the monitoring role of the National Disability Authority (NDA), the fifth and final independent assessment of the NDIS was published in June 2023⁸. The Committee also note the lack of progress highlighted by the NDA in their assessment and reflect many of the gaps in this report.

⁸ NDA (2023), '2022 NDA Independent assessment of implementation of the NDIS.' Available at: [NDA Independent assessment of implementation of the NDIS - National Disability Authority](#). Accessed 24 January 2024.

Articles 1-4 General provisions

Indication of overall progress

Limited Progress

Number	Indicators
1	Absence or effective withdrawal of any reservation issued when ratifying or acceding to the CRPD; and/or any interpretative declaration made to provisions of the CRPD which are incompatible with the object and purpose of the treaty
2	Ratification of the Optional Protocol to the CRPD
3	Adoption of appropriate measure(s) to incorporate the CRPD in the domestic legal order and/or ensure its direct applicability and enforceability by courts
4	Legislation enacted on the rights of persons with disabilities in line with the purpose, definitions, principles and general obligations of the CRPD
5	Adoption of a national plan/strategy for legal harmonisation in line with the CRPD
6	Adoption of a national action plan/strategy for the implementation of the Convention, which includes timeframes, specific indicators and benchmarks, and data collection and disaggregation by disability and resource allocation
7	Legal and/or statutory appointment of one or more focal points within government (across all branches and levels of government; across all ministries and sectors) with sufficient authority to mainstream the rights of persons with disabilities for implementation of the Convention
8	With a view to enhancing national implementation, legal and/or statutory appointment of a coordination mechanism within government to facilitate related action in across different sectors and levels, with a clear structure, mandate, leadership, and sufficient authority to ensure mainstreaming and implementation of the Convention
9	Legal or regulatory provision(s) which establish inclusive and accessible procedures and mechanisms for the involvement of persons with disabilities, including children with

disabilities, and their representative organizations, across all disability constituencies, in the development and implementation of legislation and policies to implement the Convention

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- | | |
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| 10 | Legislation enacted on the right to freedom of association inclusive of persons with disabilities, including supporting the development of organizations of persons with disabilities, and protection against intimidation, harassment and reprisals, particularly when expressing dissenting opinions |
|----|--|
-
- | | |
|----|---|
| 11 | Legal provision(s) requiring allocation of funds from the national budget to financially support the development and strengthening of organizations of persons with disabilities to participate in the development and implementation of legislation and policies to implement the Convention |
|----|---|
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Conclusions and recommendations

11. The UNCRPD is the first international, legally binding instrument setting minimum standards for the rights of people with disabilities. Key to effective implementation of the Convention is ensuring representative bodies, DPOs are actively engaged in drafting legislation, policy, and in other decision-making processes that affect them, as required by Article 4 (3) of the Convention.
12. The Programme for Government outlines a commitment to ratify the Protocol to the Convention. Ratification of the Protocol can support effective implementation of the UNCRPD allowing public bodies to be held to account for the delivery of human rights for people with disabilities. The Minister for Children, Equality, Disability, Integration and Youth indicated to the Committee that his Department is scoping the requirements for earlier ratification of the Protocol with its legal advisors and that the decision to ratify will ultimately be taken by Cabinet⁹.
13. The Committee are aware of the significant obligations under the UNCRPD to engage with persons with disabilities in the legislative process, as per Article 4 (3) and the Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol¹⁰. Currently people with disabilities and DPOs

⁹ Joint Committee on Disability Matters (2023), [Opening Remarks by Minister Roderic O’Gorman, TD](#), Public Meeting, 19 January 2023.

¹⁰ United Nations Department of Economic and Social Affairs Disability, ‘*Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities*’.

are not being consulted as required by Article 4 (3). The Disability Participation and Consultation Network (DPCN), established in 2020, to facilitate participation by persons with disabilities in the policy development process, in its current format, does not satisfy the requirements of UNCRPD regarding consultation.

14. The Committee continue to call for additional direct consultation with DPOs until such time as the DPCN is developed to align with the Convention's requirements. The NDA is undertaking an independent evaluation of the DPCN. The Committee look forward to the NDAs recommendations to DCEDIY to inform future decision-making in this space.
15. The Irish Human Rights and Equality Commission's (IHREC) Human Rights and Equality Grant which provides grant funding to bodies to carry out certain activities to promote human rights and equality in Ireland is crucial in this regard. The Committee continue to recommend the development of a disability awareness raising strategy in line with the human rights model of disability including roll out of standard disability awareness and equality and human rights training for all public sector staff, as well as across all services, in consultation with DPOs.
16. In realising the implementation of the UNCRPD, the Committee heard that significant tensions exist between DPO's and Disability Service Providers as traditionally the views of the persons with disabilities were dismissed in favour of third-party representatives.
17. There are several existing mechanisms of engagement on disability issues, for example the DSG, DPCN, and IHREC's Disability Advisory Committee. The NDA suggests that DCEDIY clarify the role of the various stakeholder engagement mechanisms, including setting out in more specific terms how DPOs will be involved within the implementation and monitoring of the Convention¹¹. The Committee support this recommendation.
18. All Government Departments and public bodies have a duty to mainstream and protect human rights for people with disabilities under the Public Sector Equality and Human Rights Duty (the Duty). Throughout public meetings of the Committee it

¹¹ NDA (2023), '2022 NDA Independent assessment of implementation of the NDIS.' pp. 51.

has become clear how the Duty provides an effective framework for the realisation of human rights for people with disabilities if implemented effectively to support rights of people with disabilities as policy beneficiaries and service users of a public body.

19. The Committee support IHREC’s recommendation to use the Duty as a pathway to transition to a human rights-based model of disability. The Committee has made recommendations in its report ‘Ensuring Independent Living and the UNCRPD’ regarding oversight and accountability of Government Departments and that DCEDIY further develop the Duty and consider foregrounding in the UNCRPD Implementation Plan. The Committee make further recommendations in this report.
20. Legal provision must be strengthened under the Duty to compel all public bodies to consult with people with disabilities and DPOs in the development of legislation and policies to implement the Convention in line with Article 4 (3). A funding stream and supports must be developed so that DPOs can access and participate in consultations to support them to perform their functions under UNCRPD. Funding could be provided by individual departments who are seeking consultation as per NDAs Participation Matters Guidelines.¹²
21. There is a requirement to develop disability inclusion and mainstreaming in all legislation, policies, and programmes across all Government Departments under the Duty. The successor of the NDIS, due to be published in 2024 is utilising a mainstreaming approach, however there is also a need to develop targeted support where necessary and on foot of consultation with people with disabilities and DPOs. The United Nations promotes the “twin-track approach” for equalising opportunities for persons with disabilities, which consists of a balance between mainstreaming strategies and targeted-support tailored to address the needs of specific communities, but the overall goal should always be integrating and including persons with disabilities in all aspects of society and development.¹³

¹² NDA (2022), ‘Participation Matters Guidelines on implementing the obligation to meaningfully engage with disabled people in public decision making’.

¹³ United Nations Economic and Social Council (2011), ‘Mainstreaming disability in the development agenda’ Available at: [Link](#). Accessed 08 January 2024

22. Considering the lived reality for people with disabilities and the lack of rights-based policy in areas where rights are impacted, the Committee believe that there needs to be better coordination between Government Departments on policies that impact rights, for example, Our Rural Future: Rural Development Policy 2021-2025 and the Roadmap for Social Inclusion 2020-2025, and in tandem with the successor to the NDIS.
23. IHREC recommends that the human rights model of disability should be fully integrated across all relevant legislation, including the Disability Act 2005, to ensure harmonisation with the UNCPRD.¹⁴
24. The Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol highlights the need to ensure that persons with disabilities are actively engaged in drafting legislation and in other decision-making processes that affect them and that they should also be encouraged to offer observations and guidance when laws are implemented. Parliament, through its oversight function, plays a key role in ensuring respect for the human rights of persons with disabilities through parliamentary committees, commissions of inquiry, direct questioning of ministers, scrutiny of executive appointments, oversight over non-governmental public agencies and budgetary scrutiny and financial control.¹⁵
25. People with disabilities have highlighted to the Committee the lack of consultation in the legislative process. The Joint Committee on Children, Equality, Disability, Integration and Youth (JCCEDIY) highlighted the failure of meaningful public consultation on the Assisted Decision Making (Capacity) Act 2015, milestone legislative proposal for people with disabilities, in their pre-legislative report on the Assisted Decision Making (Capacity) (Amendment) Bill 2021¹⁶ as well as the Child Care (Amendment) Bill 2023¹⁷. The strengthening of the Duty should support meaningful participation and consultation of persons with disabilities.

¹⁴ IHREC (2021), 'Submission on the Review of the Equality Acts', Available at: [IHREC-Submission-on-the-Review-of-the-Equality-Acts.pdf](#) (Accessed 08 January 2024)

¹⁵ United Nations Department of Economic and Social Affairs Disability, 'Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities'.

¹⁶ Joint Committee on Children, Equality, Disability, Integration and Youth (2022), 'Pre-legislative report on the Assisted Decision Making (Capacity) (Amendment) Bill 2021'. Available at: [Link](#). (Accessed 08 January 2024).

¹⁷ Joint Committee on Children, Equality, Disability, Integration and Youth (2023), 'Report on pre-legislative scrutiny of the General Scheme of a Child Care (Amendment) Bill 2023'. Available at: [Link](#). (Accessed 08 January 2024).

26. Most existing Irish legislation which affects people with disabilities predates the UNCRPD and needs to be harmonised with the Convention. The Irish Judiciary played a significant role over the decades in securing rights for children with disabilities, particularly with regard to instances of legislative or policy failure. The Committee note and welcome that some Departments are reviewing the legislation they are responsible for, in line with the UNCRPD. However, there is also a need to strengthen implementation of legislation to deliver human rights more systematically for people with disabilities.
27. To enable harmonisation of existing Irish law with the UNCRPD, DCEDIY must consider introducing legislation so that Irish judges can have regard to the Convention and make decisions regarding compatibility with Irish law, alike the European Convention on Human Rights (ECHR) Act 2003. This legislation must also consider including a provision for a fast-track mechanism which allows Government to immediately amend relevant legislation, where necessary. There is also a requirement for adequate and standard training to support this role, as the UN committee frequently highlights the lack of training for the judiciary, lawyers, and other members of the judicial system.¹⁸ In tandem there is a need to ensure adequate consultation with all applicable stakeholders, including raising awareness with regard how people with disabilities rights are negatively impacted in Ireland.
28. Considering that engaging legislators in post-enactment scrutiny strengthens parliament's role in all stages of the legislative process and improves legislative scrutiny in general¹⁹, the standardisation of the post legislative scrutiny process to align with the principles of the Convention must also be considered, as well as other relevant safeguards.
29. In September 2022, the Houses of Oireachtas, under Standing Orders, agreed a proposal to create a standard timeframe of eight weeks for pre-legislative scrutiny (PLS). People with disabilities and DPOs were not being consulted on legislation to implement the Convention as required by Article 4 (3) before the eight weeks proposal was introduced, and now may be further excluded under the tightened time

¹⁸ NDA (2022), 'Overview of UNCRPD Article 13 in Ireland Access to Justice', pp. 5

¹⁹ Oireachtas Library & Research Service (2017), 'post-enactment scrutiny (PeS) by Parliament'. Available at: [2018-01-08_spotlight-post-enactment-scrutiny-in-parliament_en.pdf \(oireachtas.ie\)](https://www.oireachtas.ie/en/media/2018-01-08-spotlight-post-enactment-scrutiny-in-parliament_en.pdf) (Accessed 24 January 2024).

frame. The Committee believe that, under the Duty, the Government must develop and streamline the legislative process to make it more transparent and inclusive as well as ensuring the level of consultation as required by the UNCRPD, like many other countries who have undertaken these developments.²⁰

30. To support this, the Houses of Oireachtas Service must ensure strengthen implementation of the Duty in the organisation through disability inclusion and mainstreaming the rights of persons with disabilities across committee's operations as well as promoting compliance with the Principles of the Convention. The Houses of Oireachtas Service must undertake a review of the current approach to mainstreaming disability into committee's operations and build on existing work. A policy is also required to strengthen system-wide accessibility and ensure mainstreaming of the rights of persons with disabilities to implement the UNCRPD as well as the 2030 Agenda for Sustainable Development, and other international human rights instruments.
31. The Committee also recommend that the Government consider introducing provisions to ensure all proposed legislation is subject to public consultation before introduction in Irish Parliament. Similar initiatives have been introduced in the Scottish Parliament.²¹ These provisions must consider that the lead Oireachtas committee within whose remit the proposal falls may recommend that Parliament not take up the bill if it considers that "the consultation on the draft proposal, or the published material referred to in the statement of reasons, does not demonstrate a reasonable case for the policy objectives of the proposal or does not demonstrate that legislation is necessary to achieve those policy objectives." A provision like this could mitigate against failures in PLS as highlighted by the JCCEDIY with regard their scrutiny of the Assisted Decision Making (Capacity) (Amendment) Bill 2021 and as discussed further under Article 12.
32. This proposed legislation must include a provision for a rights-based disability impact assessment to be undertaken on all draft bills to support mainstreaming of disability within sectors, in line with the Convention and the Duty. This assessment

²⁰ International Center for Not-For-Profit Law (2021) 'E-Consultation Mechanisms in Legislative and Regulatory Decision-Making'. Available at: [E-Consultation-Mechanisms-in-Legislative-Regulatory-Decision-Making-12-Jan-2021-vf.pdf \(icnl.org\)](#) (Accessed 08 January 2024).

²¹ International Center for Not-For-Profit Law (2021) 'E-Consultation Mechanisms in Legislative and Regulatory Decision-Making'.

must be published as part of the public consultation to ensure that people with disabilities are aware of the impact on their rights. It is noted that the guidelines ‘How to Conduct a Disability Impact Assessment Guidelines for Government Departments’ are outdated considering these guidelines were published in 2012 prior to ratification of the UNCRPD.

33. In tandem the Government must also introduce a centralised portal for public consultation that ensures transparency and easy access to all open consultations in one place and enables simple commenting on all parts of proposed legal acts. This portal must highlight all upcoming legislation so that citizens, including people with disabilities and DPOs, can plan their resources accordingly. All Bills should be published on this platform in line with the NDAs Customer Communications Toolkit for the Public Service, A Universal Design Approach.²²
34. The NDIS ended in 2022, following a one-year extension. There has been no overarching policy in place and no real mechanism to support progress on actions under this strategy in 2023. The NDA final assessment of the NDIS highlights that Departmental Disability Consultative Committees (DCCs) are not meeting until such time as a new strategy is in place. The DCCs are an important space for stakeholder engagement and the sharing of progress updates which is now unavailable.²³ The Committee believe that all Departments must establish and maintain a DCC.
35. At its public meeting, 20 September 2023, the Committee heard from the NDA and the DSG who are responsible for monitoring the NDIS about the lack of accountability, engagement, and commitment in some Government Departments. This has led to a standstill in progressing human rights for people with disabilities in Ireland.
36. ‘The future of human rights is movement....a movement of mobilisation, a movement of political process towards accountability and empowerment, and a movement towards norms of freedom, dignity, and equality’.²⁴

²² NDA (2023), ‘Customer Communications Toolkit for Services to the Public – A Universal Design’, Available at: [Customer Communications Toolkit for the public Service, A Universal Design Approach](#)

²³ NDA Independent Assessment of Implementation of the National Disability Inclusion Strategy for 2022, pp. 13

²⁴ A. Brysk (2018), ‘The Future of Human Rights’, Polity.

37. More action is needed by the State to mobilise cross sectoral actors and establish mechanisms to produce rights-based public policy and truly embed the rights of people with disabilities in Irish society. Commencement of the Assisted Decision Making (Capacity) Act 2015 is a milestone in the promotion of human rights and equality for people with disabilities, especially those with intellectual disabilities, and marks a real beginning in terms of change.

The Committee recommends

Number	Recommendation
1	The State must ratify the Optional Protocol before the cessation of the 33rd Dáil session.
2	Incorporation of the UNCRPD into Irish Law similar to that of the European Convention on Human Rights Act 2003 and including adequate consultation across all relevant stakeholders.
3	A review of the Disability Act 2005 and consider the provision of a right to live independently with access to rights-based services in the community including the creation of a statutory Public Sector Inclusion Objective that places a duty on all public bodies to deliver independent living (Article 19 UNCRPD). As an interim measure, reactivate the use of sectoral plans as provided for under Part 3 of the Disability Act 2005 as a statutory obligation under UNCRPD implementation.
4	<p>The Government must immediately develop public consultation in the legislative process in line with the Convention and;</p> <ul style="list-style-type: none">a) introduce provisions to ensure all proposed legislation is subject to public consultation in line with Article 4 (3) before introduction in Irish Parliament.b) develop and introduce a centralised portal for public consultation that ensures transparency and easy access to all open consultations including public consultation intended by the Oireachtas.c) mandate a rights-based disability impact assessment as a standard across all proposed policy and legislation and published as part of the public consultation.

- 5 The Houses of Oireachtas Service must strengthen implementation of the Public Sector Equality and Human Rights Duty and ensure disability inclusion and mainstream the rights of persons with disabilities across Oireachtas Committees operations by;
 - a) undertaking a review of the Oireachtas Committees current approach to mainstreaming disability into operations in advance of the next Dáil session
 - b) develop a policy to promote compliance with the Principles of the Convention and the 2030 Agenda for Sustainable Development, and other international human rights instruments.
 - 6 Departments must develop an intersectional approach and strengthen their collaboration in this regard in relation to policy and proposed legislation that impacts human rights for people with disabilities.
 - 7 The Government must further develop the Public Sector Equality and Human Rights Duty including strengthening compliance mechanisms on all public bodies in line with the UNCRPD and Article 4 (3) as well strengthening the application of the Universal Design principals across all public bodies.
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Article 5 Equality and non-discrimination

Indication of overall progress

Good Progress

Number	Indicators
1	National constitutional provisions adopted, and legislation enacted recognising the right to equality and non-discrimination of persons with disabilities, including the right to be provided with reasonable accommodation and the duty to adopt specific measures to achieve de facto equality
2	Adoption of a national strategy and/or plan for equality of all persons with disabilities, in particular the groups more at risk of discrimination
3	Legal or statutory requirement to collect and publish data disaggregated by disability across all sectors (health, employment, education, violence, access to justice, political participation, among others), including enrolment rate, employment rate, access to health services, victims of violence, complaints on discrimination lodged, etc.)
4	Legal requirement to establish a marker on all public spending to promote and protect the rights of persons with disabilities
5	Relevant thematic legislation enacted explicitly prohibiting discrimination on the basis of disability and providing legal remedies for all forms of discrimination
6	Specific theme/target within national strategy/plan for equality of all persons with disabilities, which ensures the availability of technical guidance, financial incentives and budgetary resources for the provision of reasonable accommodation by public and private actors

Conclusions and recommendations

38. People with disabilities are equal citizens in Irish law. IHREC highlights that people with disabilities in Ireland experience higher rates of discrimination than people without disabilities, with on average 15% of people with disabilities experiencing

discrimination compared to 11% of those without a disability. IHREC further note that discrimination is mostly experienced in the health services followed by the private sector (e.g., financial institutions, housing, shops, pubs, and restaurants) where people with disabilities were 65% more likely to experience discrimination than those without disabilities.²⁵ More than 40% of queries about equality issues received by IHREC in 2022 were linked to disability discrimination, according to its annual report.²⁶

39. It is crucial that all legislation is reviewed through the equality lens and reformed in line with a modern human rights framework.
40. Equality budgeting was introduced in Ireland on a pilot basis in 2017 as part of a commitment in the Programme for a Partnership Government (May 2016) to “develop the process of budget and policy proofing as a means of advancing equality, reducing poverty, and strengthening economic and social rights”.²⁷
41. The Parliamentary Budget Office (PBO) undertook an ‘Analysis of Equality Budgeting Content in the Revised Estimates for Public Services 2023’. This analysis highlights that Gender Equality Metrics are reported by only 12 out of 45 Votes (26%), with the highest number of metrics reported by Department of Enterprise, Trade and Employment. Disability metrics are reported by only 7 out of 45 Votes (15%), with the highest number of metrics reported by Department of Health.²⁸
42. The Committee welcome that the Department of Health are leading with the highest number of metrics with regard disability. The Committee are concerned that there is a noticeable absence of intersectionality²⁹ and therefore a lack of progress with regard ensuring equality, reducing poverty, and strengthening economic and social rights for people with disabilities, especially women with disabilities. The Committee continue to recommend that Equality Budgeting be developed to deliver CRPD

²⁵ IHREC (2018), ‘Disability and Discrimination in Ireland: Evidence from the QNHS Equality Modules 2004, 2010, 2014’, Available at: [Disability and discrimination in Ireland: evidence from the QNHS Equality modules \(ihrec.ie\)](#) (Accessed 08 January 2024).

²⁶ IHREC (2023), Annual Report 2022, Available at: [Annual Report 2022 - IHREC - Irish Human Rights and Equality Commission](#) (Accessed 08 January 2024).

²⁷ Government of Ireland, ‘Programme for a Partnership Government (2016)’, pp.104, Available at: [programme_for_partnership_government.pdf \(merriestreet.ie\)](#) (Accessed 08 January 2024).

²⁸ Parliamentary Budget Office (2023), ‘An Analysis of Equality Budgeting Content in the Revised Estimates for Public Services 2023’, Available at: [An Analysis of Equality Budgeting Content in the Revised Estimates for Public Services 2023 \(oireachtas.ie\)](#) (Accessed 08 January 2024).

²⁹ Parliamentary Budget Office (2023), ‘An Analysis of Equality Budgeting Content in the Revised Estimates for Public Services 2023’, pp. 2.

compliant budgeting and that all Departments update their budgetary key metrics accordingly and in line with CRPD compliant budgeting.

43. IHREC highlights that under the Employment Equality Acts 1998 – 2015, direct discrimination is when a worker is treated less well than another worker in the same situation or circumstances under any of the nine grounds covered in the Acts. Direct discrimination can also be, for example, an order given by a manager to a worker to discriminate against another worker. Indirect discrimination happens where a worker or group of workers or job applicants are treated less favourably as a result of requirements that they might find hard to satisfy.³⁰ This clearly highlights how structural discrimination embedded in Irish institutions can result in obstacles to people with disabilities in achieving the same rights and opportunities that are available to the majority of the population.
44. Evidence provided to the Committee defines a “reasonable accommodation” as individually suited measures or tailored measures to the needs of the individual. The NDA carried out research in 2019 on cases taken to the Workplace Relations Court (WRC) in respect of reasonable accommodations and found that where employers had been found against, was often because they had not followed due process or had a discussion with the individual requiring the accommodation.
45. IHREC and the NDA both highlighted the need for strengthening provisions regarding reasonable accommodations.³¹ The DPO Network highlighted concern that under the Employment Equality Acts, the denial or refusal of reasonable accommodation by an employer or a prospective employer does not currently constitute an act of discrimination. The UNCRPD expressly describes the denial of reasonable accommodation as a form of discrimination.
46. There is a need to review the Employment Equality Acts and the Equal Status Acts with regard intersectional discrimination and how an individualised approach can be strengthened to assessment under the reasonable accommodation process.
Consideration of funding under the Equal Status Act for those with limited resources

³⁰ IHREC, ‘Discrimination under the Employment Equality Acts’, Available at: [Discrimination under the Employment Equality Acts - IHREC - Irish Human Rights and Equality Commission](#) (Accessed 08 January 2024).

³¹ IHREC (2021), ‘Submission on the Review of the Equality Acts’. Available at: [IHREC-Submission-on-the-Review-of-the-Equality-Acts.pdf](#) (Accessed 08 January 2024). NDA (2021), ‘NDA Submission to the Review of Equality Legislation’. Available at: [NDA Submission to the Review of Equality Legislation - National Disability Authority](#) (Accessed 08 January 2024).

and an amendment to provide that denial of reasonable accommodation is discriminatory is also necessary. Exemptions to the prohibition of discrimination in the Employment Equality Acts also need to be reviewed, particularly the removal of Section 35(1) on different rates of remuneration for disabled people.

47. There is also a requirement to establish an accurate system of data collection regarding the number of complaints received and dealt with by the institutions tasked with monitoring discrimination, including the complaints process under the Equality Acts. This data should be in the public domain.
48. As referred to previously under Article 1-4, the Public Sector Equality and Human Rights Duty can be used as a framework to realise human rights for people with disabilities, and the importance of this was highlighted to the Committee during proceedings. Section 42 of the Irish Human Rights and Equality Commission Act 2014 requires each public body to develop its public sector duty by consulting with staff and service users, assessing issues related to equality and human rights, putting effective plans in place that will measure those, and reporting on them annually. However, antidiscrimination legislation often lacks adequate enforcement which can undermine the effectiveness of the legislation.
49. The NDA highlighted that the Public Sector Equality and Human Rights Duty could be used as an indicator within a monitoring framework for the UNCRPD implementation strategy.
50. DCEDIY are developing a National Equality Data Strategy in conjunction with the Central Statistics Office (CSO) which will allow for better measurement of the effectiveness of policies and legislation in terms of challenging discrimination, promoting equality, and protecting human rights. This work is a crucial step towards enhancing evidence-informed policy for the effective implementation of the UNCRPD.³² As highlighted by the Global Partnership for Sustainable Development Data, ‘intersectional approaches to data identify inequality within and between

³² NDA Independent Assessment of Implementation of the National Disability Inclusion Strategy for 2022, pp. 15.

groups of people based on the way multiple facets of an individual's identity interact. They ensure that data contributes to the reduction of inequality'.³³

The Committee recommends

Number	Recommendation
8	Developing the Public Sector Equality and Human Rights Duty to include equality considerations regarding the operation of legislation, as well as the design of policies and delivery of services, and strengthening enforcement mechanisms to ensure compliance.
9	The Employment Equality Acts must be reviewed to align with Article 5 of the UNCRPD and to better combat discrimination and promote equality.
10	DCEDIY must ensure an accurate and intersectional approach to data collection, including consultation with DPOs regarding the National Equality Data Strategy for identifying current gaps in equality data and solutions on how to fill those gaps.
11	DCEDIY must establish an accurate system of data collection about the number of complaints received and dealt with by the institutions tasked with monitoring discrimination, including the complaints process under the Employment Equality Acts, and that this data is available in the public domain.
12	Equality Budgeting must be developed to deliver CRPD compliant budgeting, and all Government Departments must update their budgetary key metrics to include disability metrics.

³³ Global Partnership for Sustainable Development Data (2021), 'Unpacking Intersectional Approaches to Data'. Available at: [Unpacking Intersectional Approaches to Data \(data4sdgs.org\)](https://data4sdgs.org/) (Accessed 08 January 2024).

Article 6 Women with disabilities

Indication of overall progress
Good Progress

Number	Indicators
1	Legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex (based on SDG indicator 5.1.1) and disability (See also article 5 CRPD)
2	Adoption of a legal framework that guarantees women’s equal rights to land ownership and/or control (based on SDG indicator 5.a.2), including women with disabilities
3	National gender equality plans, policies and laws are fully inclusive of women and girls with disabilities and contain specific measures for the advancement and empowerment of all women and girls with disabilities including through supporting the development of their representative organizations and through the adoption of a twin track approach
4	Systems adopted to track and make public allocations for gender equality and women’s empowerment (based on SDG indicator 5.c.1) with allocations disaggregated by target population

Conclusions and recommendations

51. Article 6 of the Convention states that women and girls with disabilities share the same rights on an equal basis with others. State Parties need to recognise that women and girls with disabilities are subject to multiple discrimination and implement measures that specifically surface the barriers and ensure consultation and act as effective intervention.
52. As per Census 2016, women with disabilities make up 51.6% of the population of people with disabilities³⁴.

³⁴ CSO (2016), ‘Census of Population 2016 – Profile 9 Health, Disability and Carers’. Available at: [Characteristics - CSO - Central Statistics Office](#). (Accessed 08 January 2024).

53. Women and girls with disabilities experience double discrimination, which places them at higher risk of gender-based violence, sexual abuse, neglect, maltreatment, and exploitation.³⁵ Disabled Women Ireland (DWI) highlighted that financial dependence is linked to increased risk of gender-based violence.³⁶
54. Violence against women is arguably the world's largest human rights problem, estimated to affect one out of three women worldwide, around a billion people.³⁷ Global data on gender-based violence against women with disabilities is limited, however, according to a United Nations Population Fund (UNFPA) led initiative, between 40 and 68 percent of young women with disabilities experience sexual violence before the age of eighteen.³⁸ A report by the UNHCR, the UN refugee agency, the UNFPA, and the Women's Refugee Commission (WRC) highlights that refugee and migrant women and girls on the move in Europe face grave risks of sexual and gender-based violence.³⁹ With the significant estimated worldwide increases in refugees up to 2050, coordinated protection of human rights for people on the move is vital.
55. The women's movement mobilization on gender violence that declared 'women's rights are human rights' has trailed a pathway for the disability rights movement to be mobilised further.⁴⁰ Through the Joint Committee on Gender Equality, the recommendations of the Citizen's Assembly on Gender Equality were progressed further, particularly the reality for a constitutional referendum to enshrine gender equality in Irish Constitution and that the Government ensures that intersectionality with regard to disability is considered in the creation of appropriate laws and policies and the design and delivery of accessible, inclusive services.⁴¹
56. The Domestic, Sexual and Gender Based Violence Agency, Cuan, was established on 1 January 2024 with responsibility for coordinating Government actions to tackle

³⁵ United Nations Department of Economic and Social Affairs Disability, 'Women and girls with disabilities.' Available at: [Women and girls with disabilities | United Nations Enable](#). (Accessed 08 January 2024).

³⁶ Disabled Women Ireland, 'Submission to the Joint Oireachtas Committee on Disability Matters on the topic "Ensuring independent and adequate standard of living and social protection for people with disabilities"'. Available at: [DWI Submission to Disability Matters Committee on Art.28 of UN CRPD.docx \(oireachtas.ie\)](#). (Accessed 08 January 2024).

³⁷ The Future of Human Rights, pp.55

³⁸ Office of the United Nations High Commissioner for Human Rights 92021), 'Panel 1: Violence against women and girls with disabilities'. Available at: [Panel 1: Violence against women and girls with disabilities | OHCHR](#). (Accessed 08 January 2024).

³⁹ UN Refugee Agency Ireland (2016), [Refugee women on the move in Europe are at risk, says UN | UNHCR Ireland](#) (Accessed 08 January 2024).

⁴⁰ The Future of Human Rights, pp. 55

⁴¹ Joint Committee on Gender Equality (2022), 'Unfinished Democracy: Achieving Gender Equality'. Available at: [Unfinished Democracy: Achieving Gender Equality \(oireachtas.ie\)](#). (Accessed 08 January 2024).

domestic, sexual and gender-based violence (DSGBV), including delivery of services to victims of DSGBV and increasing the availability of emergency accommodation.⁴²

It is crucial that this agency prioritises an intersectional approach, and develops targeted interventions to protect women with disabilities, across migrant, Travellers and Roma, ethnic minorities, and LGBTQI+ groups. All emergency accommodation must be fully accessible.

57. It was highlighted to the Committee that there is an equality gap between disabled men and disabled women, which continues to grow, in the absence of active, focused interventions. Further, women with disabilities are almost twice as likely to experience violence compared to men with disabilities or men and women without disabilities.⁴³ The Committee also heard that disabled women, girls, and other gender minorities need specific representation to meaningfully advocate on the issues impacting their lives, as do ethnic minorities and children. The UNCRPD General Comment 7 specifies an additional obligation to prioritise and capacity-build these groups.
58. The Committee were concerned to hear that most of the violence experienced by disabled women, girls and non-binary people is often from their caretakers and family members, however there is not sufficient provision in law to capture those relationships. Further, almost none of the national strategies for disabled people have high level gender-based targets.
59. The National Strategy for Women and Girls 2017-2020 does note that disabled women experience greater marginalisation, poverty, and unemployment and that this should be addressed through the NDIS. However, the NDIS contains only one mention of women, and the Comprehensive Employment Strategy for People with Disabilities 2015-2024 (CES) does not mention women at all. The NDA highlights the opportunity for better alignment of relevant strategies under the UNCRPD Implementation Plan. DWI also highlighted that the most recent gender-based

⁴² Oireachtas Library & Research Service (2023), Bill Digest '*Domestic, Sexual and Gender Based Violence Agency Bill, Bill No. 67 of 2023*'. Available at: [Domestic, Sexual and Gender Based Violence Agency Bill \(oireachtas.ie\)](https://www.oireachtas.ie/bills/2023/67/). (Accessed 08 January 2024).

⁴³ Anyango C, Goicolea I and Namatovu F (2023), 'Women with disabilities' experiences of intimate partner violence: a qualitative study from Sweden'. BMC Women's Health. Available at: [Women with disabilities' experiences of intimate partner violence: a qualitative study from Sweden - PMC \(nih.gov\)](https://doi.org/10.1186/s12927-023-01000-0). (Accessed 08 January 2023).

violence strategy includes no mention of disabled people other than a reference to DWI being one of the bodies that held a consultation on the strategy.

60. As highlighted to the Committee, in addition to ensuring a gendered perspective is brought to bear in economic and policy decisions which impact on disabled people in general, paragraph 12 of UN General Comment 7 stipulates that DPOs representing women and girls are to be adequately consulted in economic and policy decisions related to women and girls in general, such as gender equality policies. Active steps should be taken to ensure such consultation is informed by the direct lived experience of all people marginalised by reason of gender or perceived gender and is reflective of a diverse range of impairment types and transversal identities, wherever possible. While consultation with DPOs representing gender-minoritised people is essential to progressing equality on gendered issues, it should not be seen as precluding consultation on these issues with other disabled people and DPOs.
61. As highlighted previously, the PBOs Analysis of Equality Budgeting Content in the Revised Estimates for Public Services 2023 highlights that Gender Equality Metrics are reported by only 12 out of 45 Votes (26%). As highlighted in this analysis, this means that there is an absence of reporting of progression of gender equality within the context of females from disadvantaged backgrounds as compared to those from less disadvantaged backgrounds.⁴⁴
62. For women and girls with disabilities, the process for reporting violence is often inaccessible because of inadequate policies and standards, negative attitudes, physical access, information availability, communication, lack of service provision, inadequate funding, and lack of involving women with disabilities in decisions that directly affect their lives.⁴⁵ There is urgent need to move from under reporting to adequate data collection that can effective policy response.

⁴⁴ Parliamentary Budget Office (2023), 'An Analysis of Equality Budgeting Content in the Revised Estimates for Public Services 2023'.

⁴⁵ Plan International (2013), 'Fact Sheet: Violence against Women and Girls with Disabilities'. Available at: [Fact sheet VAWG with disabilities FINAL.pdf \(un.org\)](#). (Accessed 08 January 2024).

63. The Committee continue to raise awareness and make recommendations with regard the economic and physical abuse that women with disabilities experience in their domestic lives.⁴⁶

The Committee recommends

Number	Recommendation
13	Strengthening legislation and developing practical measures in Ireland protecting women and girls with disabilities from gender-based violence.
14	The Domestic, Sexual and Gender Based Violence Agency, Cuan must use an intersectional approach, and develop targeted interventions to protect women with disabilities, across migrant, Travellers and Roma, ethnic minorities, and LGBTQI+ groups. All emergency accommodation and services must be fully accessible.
15	Under the UNCRPD implementation a mechanism must be introduced to enable meaningful alignment of all strategies affecting people with disabilities across Government Departments while ensuring that all national strategies for disabled people include high-level gender-based targets.
16	Ensure robust and accessible consultation with DPOs representing women and girls on all issues related to women and girls in general, such as gender equality policies.
17	Introduce measures to empower women and girls with disabilities and support their representative organisations including funding and capacity building.
18	Equality Budgeting must be developed so that all Departments update their budgetary key metrics to include gender metrics and in line with CRPD compliant budgeting.

⁴⁶ Joint Joint Meeting Disability Matters and the Committee on Finance, Public Expenditure and Reform (2022), ‘Opening Statement to the Joint Oireachtas Committee on Disability Matters and the Committee on Finance, Public Expenditure and Reform, and Taoiseach “Enabling Financial Independence for Disabled Women”’. Available at: [DWI Opening Statement on Enabling Financial Independence for Disabled Women. \(Presented to a joint session of the Oireachtas Committees on Disability Matters and Finance on 10th March 2022\).docx](#). (Accessed 08 January 2024).

Article 7 Children with disabilities

Indication of overall progress

Limited Progress

Number	Indicators
1	All legislation relating to children prohibits discrimination on all grounds and ensures the respect, protection and fulfilment of the rights of children with disabilities on an equal basis with other children
2	All legislation, policies and national action plans/strategies concerning children or persons with disabilities should be inclusive of children with disabilities, and ensure the provision and availability of disability-, age- and culturally appropriate support for children with disabilities to effectively exercise their right to express their views
3	Adoption of, and mandatory reporting on a disability marker within budget allocations and expenditures across all sectors
4	Adoption of a moratorium on new admissions of children with disabilities into institutions
5	Adoption of a legal requirement to take into account the evolving capacities of children with disabilities and their right to preserve their identities in all decisions affecting them and with respect to medical and related interventions and treatments
6	Statistics and data collected across all sectors concerning children are appropriately disaggregated and are publicly available in accessible formats
7	Availability of complaints mechanisms that are effective and accessible to children with disabilities permitting them to bring forward complaints
8	Adoption of regulations, protocols and guidance for authorities on integrating best interest assessments inclusive of children with disabilities in the design, implementation, monitoring and evaluation of legislation and policies
9	Adoption of regulations, protocols and other measures to promote both:

- a) the inclusion of children with disabilities in children-led organizations and initiatives; and
- b) the development of and support of organizations and initiatives led by children and young persons with disabilities

10	Adoption of regulations, protocols and guidance for authorities on the provision of age-, disability- and culturally appropriate assistance in seeking the views of children, consulting with, and actively involving them
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Conclusions and recommendations

- 64. Article 7 of the UNCRPD requires that the best interests of the child shall be a primary consideration in all actions concerning children with disabilities.
- 65. Census 2016 reports that just over a fifth (21.3%) of disabled persons were coded as children in a private household. These results also state that the number of disabled adult children aged 25 and over (never married and living with a parent) by type of disability accounts for 13% of all adult children, up from 11% per cent in 2011. Census 2022 reports that the percentage of people experiencing a long-lasting condition or difficulty to any extent was lower among young children (0 to 4 years) at 4% than for young adults (15 to 19 years) at 17%.⁴⁷
- 66. HIQA highlight that in 2022 there were 100 children centres with 410 residential places. HIQA also reports that during 2022 inspectors found a deterioration in compliance levels with regard to rights.⁴⁸
- 67. TUSLA highlight that 5,565 children are in care (August 2023) with 90% of children in care in foster care, 7% in residential care, and 3% are in “other” care placements.⁴⁹
- 68. It is acknowledged that the Child Care (Amendment) Bill 2023 (CCA Bill) will revise and update the Child Care Act 1991 including a new section with the best interests

⁴⁷ CSO, Census 2016, ‘Census of Population 2016 – Profile 9 Health, Disability and Carers’. Available at [Link](#). CSO, Census 2022, ‘Census 2022 Profile 4 - Disability, Health and Carers’. Available at: [Link](#).

⁴⁸ HIQA (2023) ‘Overview Report Monitoring and Regulation of Disability Services In 2022’.

⁴⁹ TUSLA (2023), ‘Monthly Service Performance and Activity Report August 2023’. Available at: [PowerPoint Presentation \(tusla.ie\)](#); Other includes at home under a care order, detention centre, disability unit, mental health unit, hospital, special emergency arrangement etc

of the child as the overriding principle. This legislation also provides an opportunity to frame elements of policy responses to the crisis in the disability sector.⁵⁰

69. The Committee support the JCCEDIY's concern as highlighted in their Report on pre-legislative scrutiny of the General Scheme of a Child Care (Amendment) Bill 2023 that children with disabilities may have been overlooked in the preparation of this legislation, and that the impact of its failure to legislate strongly for children with disabilities has not been fully considered. The Committee supports the JCCEDIYs recommendation that the DCEDIY revisit the General Scheme with insight from people with disabilities or organisations who represent children with disabilities and strengthened provisions must be introduced so that the State meets children's needs, especially those in care and those with disabilities.
70. The Committee heard at the public meeting, 8 November 2023, from the Ombudsman for Children, that legislative provisions should be strengthened to place a mandate, rather than an option to cooperate on relevant bodies, and to mandate them to collaborate on the planning, delivery and funding of children's services and activities, and not just on information sharing.
71. Further consideration of the 'presumption' of parental involvement is needed as legislative or other changes may be necessary to ensure individual welfare determination to ensure that children who are vulnerable are safeguarded. This takes into consideration the human rights model of disability. The regulations, protocols, and guidance for authorities on integrating best interest assessments should include children with disabilities in the design, implementation, monitoring and evaluation of legislation and policies. Children with complex disabilities may need an individual welfare determination rather than applying general presumption. The Committee believe that an individual welfare determination is more aligned with Article 7 UNCPRD.
72. The Ombudsman for Children's recent report 'No Where to Turn' published in September 2023, highlights an increasing number of children with disabilities who are left in emergency departments or respite services in an effort by their parents to

⁵⁰ Joint Committee on Children, Equality, Disability, Integration and Youth (2023), '*Report on pre-legislative scrutiny of the General Scheme of a Child Care (Amendment) Bill 2023*'.

secure the services they need. This means that these children can often reside in hospitals for prolonged periods beyond medical need. Local disabilities managers told the Ombudsman that in some areas, the HSE does not see it as its role to provide residential care to these children and that there is no agreement between the HSE and TUSLA over which agency should fund these placements. Children with disabilities are also being placed in adult residential settings which are inappropriate for them.⁵¹

73. The Department of Health and DCEDIY must collaborate under the UNCRPD implementation plan and ensure agreement on adequate funding streams to support these children, and any other children who fall outside the Joint Protocol for Interagency Collaboration between the HSE and TUSLA.
74. Ireland's review by the UN Committee on the Rights of the Child further raised significant concern regarding children's mental health services, particularly the long waiting lists and the placement of children in adult psychiatric wards. The Committee note that the Inspector of Mental Health Services could not provide an assurance to all parents in Ireland that their children have access to a safe, effective, and evidence-based mental health service, in their final report on the provision of child and adolescent mental health services (CAMHS) in the State. The Committee support the Mental Health Commissions (MHCs) recommendation that the immediate and independent regulation of CAMHS by the MHC must be put in place "to ensure the State and the HSE act swiftly to implement the governance and clinical reforms to help guarantee that all children have access to evidence-based and safe services, regardless of geographical location or ability to pay".⁵²
75. The UN Committee on the Rights of the Child also recommended that the Domestic Violence Act 2018 be amended to enable children to apply for protection and safety orders.

⁵¹ Ombudsman for Children (2023), 'Nowhere to Turn Children with disabilities left with no support'. Available at: [NowhereToTurnReport.pdf \(oco.ie\)](#). (Accessed 08 January 2024).

⁵² Mental Health Commission (2023), 'Independent Review of the provision of Child and Adolescent Mental Health Services (CAMHS) in the State by the Inspector of Mental Health Service'.

76. Seclusion and restraint continue to be used inappropriately in schools to support children with “challenging behaviours” and the situation is compounded by the lack of appropriate guidelines.
77. The NDA’s fifth and final assessment report on the NDIS highlights the ongoing challenges with the assessment of need process under the Disability Act 2005 as well as the impact of delayed interventions for children with disabilities.⁵³ In addition, there has been many issues establishing and progressing the Children Disability Network Teams. The HSE Roadmap for Service Improvement 2023-2026 Disability Services for Children and Young People is published⁵⁴ and the Disability Capacity Review Action Plan for Disability Services 2024-2026 was published in December 2023.⁵⁵
78. The Committee’s report, ‘Aligning Disability Services with the UNCRPD’, called on Government to hold crisis talks on Disability Services and ensure relevant public bodies implement urgent measures to support the rights of children with complex disabilities. TUSLA highlight that from 2015 to 2021, there has been a 131% increase in the number of Private Residential Care Services in all regions during this period.⁵⁶ The Committee note that there is a need to build a sustainable approach to support parents who are caring for children with complex disabilities in the home to access the services they need in the community as per Article 23 of the Convention. The Committee’s report also makes many recommendations in relation to rights-based care for children with disabilities and the Committee supports the NDA’s call for prioritisation of an evaluation of Progressing Disability Services under the successor to the NDIS.⁵⁷

⁵³ NDA Independent Assessment of Implementation of the National Disability Inclusion Strategy for 2022.

⁵⁴ [Roadmap for Service Improvement 2023 – 2026 \(hse.ie\)](#)

⁵⁵ [gov.ie - Action Plan for Disability Services 2024 – 2026 \(www.gov.ie\)](#)

⁵⁶ TUSLA, ‘Strategic Plan for Residential Care Services for Children and Young People 2022-2025’.

⁵⁷ NDA Independent Assessment of Implementation of the National Disability Inclusion Strategy for 2022.

The Committee recommends

Number	Recommendation
19	DCEDIY must develop strengthened provisions to ensure that the State meets the rights and needs of children with disabilities, especially those in care, in line with the UNCRPD.
20	The State must eliminate the practice of placing children in institutions as well as the practice of seclusion and restraint across all settings.
21	Legislative provisions should be strengthened to place a mandate, rather than an option to cooperate on relevant bodies, to collaborate on the planning, delivery and funding of children's services and activities, not just on information sharing.
22	Establish policies, mechanisms, and processes to facilitate the effective participation of children with disabilities and support for the development of representative organisations led by children and young persons with disabilities particularly with regard the legislative process to ensure that the concept of the best interests of the child is applied.

Article 8 Awareness Raising

Indication of overall progress

Good Progress

Number	Indicators
1	No provision in legislation and policies that perpetuates stigma and discrimination against persons with disabilities
2	Existence of comprehensive national disability awareness raising strategy and/or plan aimed at combating stereotypes against persons with disabilities and promoting awareness about persons with disabilities and their rights
3	Specific plan by media regulatory authorities to encourage the adoption by mass media and media outlets of: Inclusive and accessible guidelines for the workplace and human resource procedures to welcome diversity; Guidelines for journalists on reporting on persons with disabilities. Mechanisms for consultation with persons with disabilities, notably through their representative organizations, in the design, development and monitoring of their policies and practices
4	Enactment of legal measures that address hate crimes, hate speech and harmful practices against persons with disabilities, including through criminally enforceable sanctions
5	Enactment of legal measures that address the use of derogatory language and behaviour through proportionate sanctions
6	Human rights education and training programmes include the rights of persons with disabilities and involve organisations of persons with disabilities representative of diverse constituencies

Conclusions and recommendations

79. Article 8 of the UNCRPD highlights key areas of awareness raising that State Parties should focus on including respect for rights and dignity, combating stereotypes, prejudices, and harmful practices, and promoting awareness of the capabilities and contributions of people with disabilities. To do this, Article 8 calls for effective public awareness campaigns that target the workplace, education, and the media.
80. The Committee has made several recommendations regarding awareness raising and the need for a culture shift to ensure human rights for people with disabilities. The Committee continues to recommend the development of standard disability awareness training in conjunction with people with disabilities and DPOs.
81. The Committee heard from various witnesses of the depth of awareness raising required. Learning to speak up for yourself was highlighted by many witnesses as the first step in having control over your life, but in Ireland too often, people with intellectual disabilities have had no control over their lives, with decisions both minor and major, being made for them by others. Raising awareness within and amongst persons with disabilities about their rights under the UNCRPD may also have an important immediate effect as there is still limited awareness about DPO's and their role in ensuring effective disability proofing of society and systems.
82. Consideration must also be given to the sustainability of individualised campaigning and awareness raising and long-term disability proofing. The Committee note that the UNCRPD awareness raising campaign has begun 'Disability Rights are Human Rights' and DCEDIY intend to publish a related strategy.
83. The NDIS and CES are both all of Government policies across all departments and covering awareness raising across a range of areas. The new iterations of these strategies need to further enhance action in relation to Article 8 awareness raising as well as increasing engagement and coordination across departments. In their Work Programme, the Committee prioritise raising awareness of the issues faced by people with disabilities when their rights are impacted and take a rights-based approach to scrutinising public policy. The growing awareness and transnational

women's movement mobilization was triggered by the declaration that 'women's rights are human rights'.⁵⁸

84. The Economic and Social Research Institute (ESRI) undertook a study funded by the NDA on experimental tests of public support for disability policy. The study found that many people supported most policies that aim to enable disabled people to participate fully in society, even with full anonymity. Support was stronger among respondents most familiar with disability issues, such as those with lived experience of disability or whose partner or child has a disability.⁵⁹

The Committee recommends

Number	Recommendation
23	DCEDIY must publish the national awareness raising strategy for the implementation of Article 8 which aims at combating stereotypes against persons with disabilities and ensure standard disability awareness training and initiatives across every public sector body.

⁵⁸ The Future of Human Rights, pp. 55.

⁵⁹ ESRI (2023), 'Experimental Tests of Public Support for Disability Policy.' Available at: [EXPERIMENTAL TESTS OF PUBLIC SUPPORT FOR \(esri.ie\)](https://www.esri.ie/publications/experimental-tests-of-public-support-for-disability-policy).

Article 9 Accessibility

Indication of overall progress
No Progress

Number	Indicators
1	Legislation enacted ensuring the right to access, on an equal basis with others, to the physical environment, transportation, services, information and communications, including ICTs, and other facilities and services open or provided to the public, in both urban and rural areas
2	Legislation on aerial, railway, road and water passenger transportation incorporates mandatory accessibility standards
3	Legislation on construction and planning, including requirements to grant authorization, incorporates mandatory accessibility standards on physical environment and services open to the public
4	Legal framework establishing mandatory standards on accessibility of information and communication for both public and private actors that provide information and services to the general public, including mass media and Internet, including social media
5	Legislation regulating emergency services, including on evacuation plans and shelters, incorporate mandatory accessibility standards
6	Legislation regulating government information and communications intended for the general public guarantee full access of public sector websites and apps, and availability of government information in alternative formats

Conclusions and recommendations

85. Article 9 of the Convention highlights that people with disabilities have the right to participate fully in all aspects of life through equal access to the physical environment, transportation, information, and communications. However, as highlighted by Disability Power Ireland (DPI) Ireland does not currently have any

legislation in place that addresses accessibility broadly across all sectors, and the Disability Act 2005 fails to consider the broadest meaning of accessibility.

86. Accessibility is a precondition for an inclusive society and must be part of all aspects of planning and development. Access Earth Submission highlights the unsustainability of the current system of development in Ireland and how accessibility is a very real concern that everyone will face at some point in their lives. Without conscious consideration towards accessibility needs, society will continue to design environments that individuals in society will eventually age out of and exclude others.
87. Many people with disabilities are unable to access appropriate housing and people with disabilities are more than twice as likely to perceive discrimination as those without a disability in accessing housing and are 1.6 times as likely to live in poor conditions.⁶⁰ Alignment with the UNCRPD demands, as highlighted by the NDA, that housing policies address the physical fabric of the buildings and the serviceability of the wider environment as well as the services, supports and income required to support independent living. This will require significant interdepartmental and interagency collaboration. The Committee continues to recommend the introduction of a Public Sector Inclusion Objective that places a duty on all public bodies to deliver regarding independent living for people with disabilities.
88. Transport is highlighted as one of the key services which helps people with disabilities to participate in everyday life and to obtain employment. The responsibility for an integrated universally designed public transport services which includes the built environment and information, and communication technologies is shared across several departments and agencies and underpinned by Article 9 of the UNCRPD.
89. Under Section 26 of the Disability Act 2005, public bodies are required to ensure that their services are accessible for people with disabilities by providing integrated access to mainstream services where practicable and appropriate. The Public Sector Equality and Human Rights Duty places statutory obligation on public bodies, in the

⁶⁰ IHREC (2018), *Discrimination and Inequality in Housing in Ireland*.

performance of their functions, to have regard to the need to eliminate discrimination, promote equality of opportunity and protect human rights of staff and service users.

90. The NDA highlight that on-street infrastructure must also be accessible, and there is a need to increase meaningful consultation with people with disabilities in this regard. The Committee support the New Policy Framework required as outlined in the report 'Proposals for development and co-ordination of enhanced transport and mobility support options for persons with disabilities'.⁶¹
91. The Committee note the delay regarding the introduction of a new transport scheme for people with disabilities and their carers that ensures flexible arrangements, is an integrated system whereby the support people receive is better related to their needs and in compliance with the Equal Status Acts. The Committee have made several recommendations in this regard.⁶²
92. Health care services are often an inaccessible environment, both the physical environment and including the inadequate skills of health care workers in relation to disability. The Committee made several recommendations regarding access to health care services in their report 'Aligning Disability Services with the UNCRPD', including the mainstreaming of accessible equipment and practises in health care services. In addition, the National Access Policy needs to be monitored in terms of its effectiveness.
93. The Irish Sign Language (ISL) Act 2017 places an obligation on the Minister of Children, Equality, Disability, Integration and Youth to report on its operation. The first report was published by DCEDIY in January 2023. The report highlights a lack of awareness among public bodies of the Act and their responsibilities to provide ISL interpretation under the Act as well as an inadequate supply of accredited ISL interpreters to fulfil the obligations of the Act. The Committee recommend that

⁶¹ DCEDIY (2022), 'Proposals for the Development and Coordination of Enhanced Transport and Mobility Support Options for People with Disabilities, National Disability Inclusion Strategy Action 104 Transport Working Group Final Report'. Available at: [Link](#) (Accessed 10 January 2024).

⁶² [Joint Committee on Disability Matters calls on Government to urgently introduce new personal transport scheme for people with disabilities – 2 Dec 2022, 10:33 – Houses of the Oireachtas](#)

DCEDIYs intended disability awareness strategy and the NDIS successor include measures to support ISL awareness raising and progress.

94. The Committee continues to recommend that the principles of Universal Design are applied at all local and national design and planning stages to ensure that all public services and facilities are provided for the convenience of all users, and those with disabilities can access on an equal basis with others. There is a further requirement to develop consistent standards for all Local Authorities with regard the UNCRPD and specifically independent living as well as ensuring delivery of relevant training in Universal Design for built environment professionals.
95. The Committee made several important recommendations regarding accessibility in their report 'Ensuring Independent Living and the UNCRPD' and continues to call for the development of an All of Government Accessibility Plan.
96. The adaption of Universal Design principles will support fully accessible services and progress mainstreaming policies and services in line with Government commitments. Some individuals due to the nature of their disability will not be in a position to use public transport and a door-to-door transport service will continue to play a significant role in terms of accessibility. It must be noted that active travel is not suitable for everyone.
97. The Committee believe that provision for accessibility must be broadened with the introduction of legislation that identifies a target date for Ireland to become fully accessible for people with disabilities and that can ensure the mobilisation and coordination of the multiple, and cross sectoral actors that have responsibility for accessibility. Provision must be made that assigns a Chief Accessibility Officer to advise and report to the Minister for Children, Equality, Disability, Integration and Youth and mandates preparation and publishing accessibility plans across all relevant stakeholders. Considering their role in Universal Design and accessibility, the NDA must be assigned as the independent agency responsible for setting accessibility standards to drive progress against the target date.

98. The Accessible Canada Act came into force in Canada in 2019 and is highlighted as a good model in this regard.⁶³

The Committee recommends

Number	Recommendation
24	The Government must introduce legislation with provision to make Ireland fully accessible to people with disabilities across all sectors by 2050. This provision must introduce new statutory and monitoring roles to ensure effective progress to meet the target.
25	As mentioned under General Provisions Article 1-4, the Government must ensure the development of a Public Sector Inclusion Objective that mandates all public bodies, including Local Authorities to adhere to Article 19, which includes a duty to improve accessibility for people with disabilities within the community.
25	The Government must ensure that sectoral plans under the Disability Act 2005 include how universally designed housing can be supplied so that housing stock facilitates independent living for disabled people and older people within communities and further development of transport infrastructure to facilitate independent travel and, in turn, full participation in the socioeconomic life of the State.
27	The Department of Housing, Local Government and Heritage must ensure the delivery of relevant training in Universal Design for built environment professionals.

⁶³ [Summary of the Accessible Canada Act - Canada.ca](#)

Article 10 Right to life

Indication of overall progress

No Progress

Number	Indicators
1	Legislation enacted to protect the right to life of persons with disabilities, including criminal sanctions for perpetrators of homicide linked to disability
2	Adoption of a policy/plan to address and prevent homicides and violence against persons with disabilities
3	Adoption of a national policy/plan to prevent and conduct effective investigations of deaths of persons with disabilities in all places of detention and places where persons with disabilities receive services (e.g., prisons, psychiatric institutions, residential institutions, etc.), and to sanction perpetrators
4	Existence of a national policy/plan to ensure that persons with disabilities, particularly women, children and older persons have access to quality and affordable health services, including access to universal health coverage, and access to emergency care on an equal basis with others
5	Legal requirement to ensure the offer and provision of support in decision making relating to life sustaining treatment
6	Adoption of an Inclusive national disaster preparedness plan
7	Adoption of inclusive policies and programmes to prevent suicide which include the following measures: <ul style="list-style-type: none"> • ensuring confidential support; • identifying and supporting persons at risk of committing suicide, including through peer support and counselling, and prohibiting risk assessments which directly or indirectly discriminate on the basis of disability, or which lead to coercive interventions; • ensuring freedom from coercive interventions

8	Where applicable, voluntary termination of life (“assisted-dying”) must ensure robust legal and institutional safeguards inclusive of persons with disabilities to verify that decisions are informed, free from outside pressure and abuse, and compliance by medical professionals of the free, informed, explicit and unambiguous decision of the person concerned
9	Ratification by the State of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty
10	Legislation enacted to abolish the death penalty in the State, including for persons with disabilities

Conclusions and recommendations

99. The standardised mortality rate for persons with disabilities is 4.1 times higher than that of persons without disabilities.⁶⁴ There is a higher mortality rate for people with disabilities residing in congregated and larger settings,⁶⁵ and prisons.⁶⁶ Adults and children with disabilities are also being placed in inappropriate settings where their rights and quality of life may be affected. People with disabilities are also more at risk of experiencing violence, discrimination, and safeguarding issues and this has particular impact on women with disabilities, who experience multiple discrimination. Autistic people are also six times more likely to attempt suicide, and in general the death rate by suicide is much higher among disabled people than those who do not have disabilities according to UK census data.⁶⁷
100. The OHCHR highlights the duty of State Parties to take adequate measures to prevent suicides of individuals deprived of their liberty. Additional vigilance is required for detainees with psychosocial disabilities, with a history of self-harm and suicide attempts, a history of substance abuse and signs of increased risk of suicide,

⁶⁴ National Disability Authority (2021), Overview of UNCRPD Article 25 in Ireland Health.

⁶⁵ McMahon MJ, O'Connor AM, Dunbar P, et al (2023), ‘Mortality in residential care facilities for people with disability: a descriptive cross-sectional analysis of statutory notifications in Ireland’. BMJ Open 2023;13:e065745.

⁶⁶ L. Bixby, S. Bevan and C. Boen (2022) ‘The Links Between Disability, Incarceration, And Social Exclusion’ Health Affairs 2022 41:10, 1460-1469

⁶⁷ Disability Rights UK (2023) ‘Disabled people far more likely to die by suicide than non-disabled people’ Available at: [Disabled people far more likely to die by suicide than non-disabled people | Disability Rights UK](#) (Accessed 10 January 2024).

such as lack of family visits at the moment the person is sentenced or when a relative dies.⁶⁸

101. The Government has extended 'Connecting for Life', Ireland's national strategy to reduce suicide to 2024. The UN Special Rapporteur on the Right to Health advises that to prevent suicide, states should adopt strategies with a rights-based approach that avoids excessive medicalisation and addresses societal determinants, promoting autonomy and resilience through social connection, tolerance, justice, and healthy relationships.⁶⁹
102. People with disabilities experience significant discrimination in accessing health services, followed by the private sector (e.g., financial institutions, shops, pubs, and restaurants) and are also left out of disaster preparedness planning and climate adaptation planning even though they are more disadvantaged in these circumstances. The Committee recommend that the NDIS successor include priorities and actions to ensure progress in these areas as well as better coordination between relevant departments and linkage across departmental policies. A plan must also be made to ensure mainstreaming of disability under SláinteCare.
103. UN human rights experts have expressed alarm at a growing trend to enact legislation enabling access to medically assisted dying based largely on having a disability or disabling conditions, including in old age. The experts note that such legislative provisions would institutionalise and legally authorise ableism, and directly violate Article 10 of the UNCPRD, which requires State Parties to ensure that persons with disabilities can effectively enjoy their inherent right to life on an equal basis with others.⁷⁰
104. The Oireachtas Joint Committee on Assisted Dying has been established to consider and make recommendations for legislative and policy change relating to a statutory right to assist a person to end his or her life (assisted dying) and a statutory right to receive such assistance.

⁶⁸ United Nations High Commissioner for Human Rights (2018) General comment No. 36 (2018) on the right to life. CCPR/C/GC/36.

⁶⁹ [Major changes to suicide prevention needed, with rights-based approach to make life "more liveable" – UN expert | OHCHR](#)

⁷⁰ [Disability is not a reason to sanction medically assisted dying – UN experts | OHCHR](#)

The Committee recommends

Number	Recommendation
28	DCEDIY must ensure that the NDIS successor include priorities and actions to ensure better coordination between relevant departments and linkage across departmental policies in health services, disaster preparedness and climate adaption planning.
29	‘Connecting for Life’ strategy must be developed to provide rights-based interventions for people with disabilities.
30	The Joint Committee on Assisted Dying must ensure that proposals for the statutory right to receive such assistance must be in line with the UNCRPD, and that disability should never be a ground or justification to end someone’s life directly or indirectly.

Article 11 Situations of risk and humanitarian emergencies

Indication of overall progress

No Progress

Number	Indicators
1	Ratification of international human rights, humanitarian, refugee law and environmental treaties and adoption/endorsement of international commitments relevant to the protection of persons with disabilities in situations of risk and emergencies
2	Legislation enacted which is inclusive of, and explicitly refers to persons with disabilities in the planning and provision of services in situations of risk and humanitarian emergencies, including climate-related hazards, ensuring the accessibility of environments, communications, information and services at all phases: prevention and preparedness, rescue, recovery, reconstruction & reconciliation
3	Where applicable, agreements, legislation and policies related to internal or international conflicts, explicitly refer to persons with disabilities, including those who have become victims, refugees, internally displaced persons, or been otherwise affected, and ensure their active involvement as agents of change in the development and implementation of provisions and policies in conflict response, recovery, reconstruction and reconciliation
4	Adoption of legal requirement to ensure the inclusion and participation of persons with disabilities in humanitarian needs assessments, related monitoring processes, and in all programmes and projects related to situations of risk and humanitarian emergencies, climate-related hazards and disaster risk reduction
5	Statutory requirement that all personal microdata collected for humanitarian purposes be disaggregated by sex, age and disability
6	Adoption of an inclusive national disaster preparedness plan that provides: <ul style="list-style-type: none"> Inclusive and accessible warning systems and evacuation protocols;

- Inclusive and accessible shelter, food and clothing distribution, sanitation, access to water, health and rehabilitation services, education, livelihood generation, family reunification;
- Specific measures to prevent and protect against violence;
- Support for live assistance, assistive devices and technologies;
- Specific measures relating to women, children, older persons and other persons with disabilities living in risk areas, including indigenous persons with disabilities, among other groups

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- 7 Adoption of an inclusive national plan for post-humanitarian crisis and post-disaster recovery and reconstruction, implementing the “build back better” approach for inclusive, culturally appropriate and accessible services, communications and environments
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Conclusions and recommendations

105. The UN highlights that climate change has been demonstrated to have both a direct and indirect impact on the effective enjoyment of a wide range of human rights. The Committee held public meetings on 28 April, 5 May 2022, 30 March and 11 October 2023 and were concerned to hear from DPOs that the failure to treat climate change as a global emergency will have even greater consequences for the lives of disabled people. CBM Global notes that it is now widely accepted that climate change affects the world’s poorest and most vulnerable people and while data on impact on persons with disabilities is not available, some estimates have suggested 20% among those most vulnerable to climate change are persons with disabilities.⁷¹
106. People with disabilities are more disadvantaged by climate change, yet their needs are excluded from climate adaptation planning. The Committee heard that climate change and environmentalism are as much about social justice as about correcting the damage inflicted on the planet. People with disabilities are often disregarded in

⁷¹ CBM Global Disability Inclusion (2021) ‘Climate Change: This Century’s Defining Issue The 4 Ps for Inclusion of Persons with Disabilities within Climate Change Plans: Personal, Programmes, Policy and Political.’ Available at: [Disability and climate change report | CBM Global \(cbm-global.org\)](https://www.cbmglobal.org/disability-and-climate-change-report/). (Accessed 10 January 2024).

the discourses and decisions on environmental social justice. Accessibility can also often be a matter of life and death in an evacuation brought on by a natural disaster.

107. Independent Living Movement Ireland (ILMI) highlighted that the Climate Action Plan 2023, 'Changing Ireland for the Better', has a reference to disabled people in relation to minimum levels of disabled parking and employment activation. This systematic invisibility of disabled people in climate planning reflects the lack of structured engagement with persons with disabilities and DPOs on this issue.
108. The Committee were concerned to hear that hard-fought gains by disabled people over decades in terms of accessibility and safety have been steadily eroded over the past two years. For example, banning plastic straws which can be used as an accessibility tool, relocation of disabled parking spaces, floating bus stops impeding disabled people and people with reduced mobility in safely accessing public transport, and the promotion of dangerous "shared spaces" directly impacting disabled people's ability to participate in society.
109. The UNCRPD provides a framework for the participation of persons with disabilities to guide preparedness, response and recovery efforts during climate events and other natural disasters. It is crucial that any climate change actions do not undermine commitments to the inclusion of disabled people in Ireland under the UNCRPD.
110. The former UN Special Rapporteur on the Rights of Persons with Disabilities identified persons with disabilities as vulnerable during the Covid-19 global health pandemic and told the Committee that if people with disabilities had been consulted at the beginning of the crisis, many of the predictable problems probably would not have happened.
111. The NDA highlighted that there is an opportunity to link the NDIS successor strategy with the National Sustainable Development Goals (SDG's) implementation plan. The National SDG implementation plan includes an action to "Consider synergies between Agenda 2030 and the UNCRPD" and seeks to develop an approach which takes account of both commitments.

112. The SDGs highlight an ambitious agenda to transform the world to ensure a better and more sustainable future for all, and the Committee welcome their foundation in realising human rights for all as per the Universal Declaration of Human Rights. However, there is no goal directly related to disability inclusion, only seven out of 169 targets specifically address disability inclusion and only 10 of their 231 indicators explicitly require disability data disaggregation.⁷² Considering disability is an integral part of humanity and the rapid increase of the ageing global population, disability must be mainstreamed in the SDGs by including a goal on disability inclusion.
113. As highlighted by the NDA, progress on the realisation of rights for people with disabilities is significantly impacted by the external shocks and crisis the State has faced, or is facing, whether the economic crisis, climate change, pandemics, or effects of wars. These events continue to stall progress because disability is significantly underreported, people with disabilities are not included in decision making, and there is no standard in disability proofing, rights-based policy, or emergency response planning. The Committee supports the NDAs call that the State take measures to ensure to the greatest extent possible that external shocks do not impact the promotion and protection of rights and include people with disabilities in emergency response plans.

⁷² [Re-thinking disability inclusion for the SDGs | United Nations Development Programme \(undp.org\)](#)

The Committee recommends

Number	Recommendation
31	The State must ensure that rights of people with disabilities are respected and protected while ensuring meaningful, and effective participation of persons with disabilities and DPOs in all emergency and humanitarian policies and planning and decision-making processes.
32	The Department of Communications, Climate Action and Environment must mainstream disability in the Sustainable Development Agenda and consider recommending a goal specifically on disability inclusion that encompasses accessibility and Universal Design.

Article 12 Equal recognition before the law

Indication of overall progress

Good Progress

Number	Indicators
1	<p>Legislation enacted that:</p> <ul style="list-style-type: none">• recognises the capacity of persons with disabilities to create, modify and end legal relationships on an equal basis with others;• protects the right and exercise of legal capacity of persons with disabilities against interference in all aspects of life;• abolishes all forms of substitute decision-making;• requires public and private actors to respect the individual's exercise of legal capacity at all times;• provides prompt and effective remedies to overturn and redress any restriction in law or in practice of an individual's legal capacity or failure to respect their decision-making on the basis of actual or perceived impairment
2	<p>No provision in legislation or regulations that:</p> <ul style="list-style-type: none">• restrict the legal capacity of persons with disabilities on the basis of actual or perceived impairment;• restrict the enjoyment and exercise of legal capacity on the basis of actual or perceived impairment with respect to any right;• Limit or deny access to court of persons with disabilities including for the purposes of invoking restoration of legal capacity
3	<p>Legislation enacted that:</p> <ul style="list-style-type: none">• recognises supported decision-making arrangements and ensures that they respect the person's autonomy, will and preferences and is made available to all persons;• ensures that informal and formal support arrangements are available, accessible, adequate and permit the creation and implementation of various supported decision-making schemes;

- recognises the support person(s) and support arrangement by the individual requesting support;
- for formal arrangements, establishes a mechanism to verify the identity of the support person(s) to challenge the actions of support person(s) if alleged not to be in accordance with the individual's will & preferences;
- includes advance planning for support and decision-making, in which the individual concerned defines the moment in which an advance directive enters into force and ceases to have effect
- provides for the right to refuse/modify a support relationship;
- provides safeguards against conflicts of interest, undue influence and abuse of support arrangements and ensures that the support provided respects the rights, autonomy, will and preferences of the individual requesting support, with remedies for violations and regular reporting and evaluation of support mechanisms in consultation with concerned groups;
- abolishes the concept of "best interests" in the determination of the type and extent of support provided to persons with disabilities;
- ensures accessibility and the duty to accommodate in all contexts requiring an exercise of legal capacity;
- allows for interpretation of the person's will and preferences exclusively in cases when it has not been possible, following significant efforts to determine them using diverse methods of communication

4	Statutory requirement to collect data on persons being restricted of legal capacity and restoration of legal capacity, disaggregated by sex, age, disability, place of residence, geographical location, migrant status, minority/indigenous background, etc.
5	Mandatory courses within legal education (in universities and other educational institutions) on the right to legal capacity of persons with disabilities and right to support for decision-making

Conclusions and recommendations

114. Article 12 of the UNCRPD addresses the right to equality before the law and the issue of legal capacity, which is the law's recognition of the decisions a person makes. On 17 December 2022 the Assisted Decision-Making (Capacity) (Amendment) Act 2022 was signed into law amending and fully commencing the Assisted Decision Making (Capacity) Act 2015 on 26 April 2023.
115. IHREC reviews draft legislation to ensure it meets with human rights and equality standards. The Assisted Decision Making (Capacity) (Amendment) Bill 2022 included measures for IHREC's statutory basis as the national monitoring body for the Convention.
116. As highlighted previously, the Committee are concerned that the Oireachtas PLS process is failing people with disabilities and not adhering to Article 4 (3) of the UNCRPD. Assisted decision making legislation is considered a milestone in implementation of the Convention, however, there was a lack of consultation with people with disabilities and DPOs on the Assisted Decision Making (Capacity) Amendment Bill 2022. The JCCEDIY highlighted the time pressure regarding PLS on the Bill as well as the lack of meaningful and accessible consultation undertaken by the DCEDIY.⁷³
117. The Committee recommend developing the legislative process in the long term to improve consultation of people with disabilities under General Provisions Articles 1-4. In the short term, the Committee believe that post enactment legislative scrutiny must be undertaken on the Assisted Decision Making (Capacity) (Amendment) Act 2022 and ensure meaningful consultation of people with disabilities and DPOs.
118. The Committee also support the JCCEDIY recommendation that every effort should be made by Government departments, in compliance with the Public Sector Equality and Human Rights Duty, to carry out meaningful engagement with those directly affected by legislation prior to publication and in line with the UNCRPD.
119. Ireland entered a reservation in respect of Article 12 such that, with proper safeguards and where provided by law, Ireland would allow for some form of

⁷³ [Joint Committee on Children, Equality, Disability, Integration and Youth - Report on Pre-legislative Scrutiny of the General Scheme of the Assisted Decision-Making \(Capacity\) \(Amendment\) Bill 2021 - April 2022 \(oireachtas.ie\)](#)

substituted decision-making, where such arrangements are necessary, in accordance with the law, and subject to appropriate and effective safeguards. For example, the appointment of a decision-making representative to take specified decisions on behalf of a person and for the taking of certain decisions by a court on behalf of a person in limited circumstances.

120. The UN Committee interpreted Article 12 as prohibiting substitute decision-making and in fact note that based on the initial reports of the different State Parties that it has reviewed so far, the UN Committee observes that there is a general misunderstanding of the exact scope of the obligations under Article 12. Indeed, there has been a general failure to understand that the human rights-based model of disability implies a shift from the substitute decision-making paradigm to one that is based on supported decision-making.⁷⁴

The Committee recommends

Number	Recommendation
33	Post enactment legislative scrutiny be undertaken on the Assisted Decision Making (Capacity) (Amendment) Act 2022 and that people with disabilities and DPOs are consulted.
34	Consider replacing substituted decision-making, including judicial support mechanisms, with supported decision-making regimes that respect the person's autonomy, will and preferences, including residents in institutions or congregated settings.

⁷⁴ United Nations High Commissioner on Human Rights (2013) 'General comment on Article 12: Equal recognition before the law', CRPD/C/11/4.

Article 13 Access to justice

Indication of overall progress
Limited Progress

Number	Indicators
1	Legislation enacted relating to the justice system which is inclusive of persons with disabilities, concerning its structure/organisation/administration and procedures, and across civil and criminal sectors
2	No provision in the constitution, legislation or regulations that restricts access to justice or restricts participation in the justice system on the basis of disability
3	Substantive and procedural criminal legislation enacted that ensures substantive and procedural guarantees for persons with disabilities on an equal basis with others and prohibits diversion from proceedings on the basis of impairment, notably for persons with intellectual disabilities and persons with psychosocial disabilities

Conclusions and recommendations

121. Article 13 of the Convention, which focuses on equal access to justice, involves the removal of barriers to ensure access to legal proceedings to seek and obtain appropriate remedies on an equal basis with others.
122. In February 2022, the UN Human Rights Council published its report on foot of the review of Ireland’s Human Rights record through the Universal Periodic Review mechanism (UPR) and Ireland accepted a recommendation to review its civil legal aid system and put into place a mechanism to ensure that disadvantaged and marginalised individuals and groups benefit from better access to the law.⁷⁵
123. In June 2022, the Minister for Justice established the Civil Legal Aid Review Group to review the current operation of the Civil Legal Aid Scheme and make

⁷⁵ FLAC (2023) ‘Stakeholder Submission to the Review of the Civil Legal Aid Scheme’. Available at: [flac_civil_legal_aid_review_stakeholder_submission.pdf](#) (Accessed 10 January 2024).

recommendations for its future. The Group established to review the Scheme is made up of representatives from the Free Legal Advice Centre (FLAC), the Irish Traveller Movement, academics and researchers, legal professional representatives and officials from government departments and agencies.⁷⁶ The Committee are concerned that it appears there are no DPOs included in the review group.

124. FLAC is an independent human rights and equality organisation. Their stakeholder submission to the Review of the Civil Legal Aid Scheme February 2023 highlights how the UN Committee and the Committee on the Elimination of Discrimination against Women have both criticised Ireland's civil legal aid scheme and recommended that Ireland improve upon gender and cultural sensitivity in the provision of services. FLAC also highlight how elements of the current civil legal scheme in Ireland, including, its limited scope and use of blanket exemptions, the means test, and the merits test, may impact human rights.⁷⁷
125. FLAC and the Irish Council for Civil Liberties established a joint project to advance the rights of persons with disabilities called the Disability Legal Resource, which operated for a period but was unable to continue its work due to a lack of funding. FLAC note that at present there is no legal service dedicated to the needs of persons with disabilities and this is a significant gap, particularly in a context where the State has ratified the UNCRPD.⁷⁸
126. Section 4 of the ISL Act 2017 is explicit in stating that a person may use ISL in any court and accordingly there is a duty on the court service to make sure that the person will not be placed at any disadvantage being heard in ISL. Consultation suggests that while the courts generally ensure that each party is provided with their own interpreter, this does not happen in all courts and that there have been issues with ISL interpretation provision in the High Courts and the Coroners Court.⁷⁹ There must be consistent provision of ISL interpretation across all judicial process in parallel with supported training.

⁷⁶ [gov.ie - Public Consultation on the Review of the Civil Legal Aid Scheme \(www.gov.ie\)](https://www.gov.ie/public/publications/consultations/public-consultation-on-the-review-of-the-civil-legal-aid-scheme)

⁷⁷ FLAC (2023) 'Stakeholder Submission to the Review of the Civil Legal Aid Scheme'

⁷⁸ FLAC (2023) 'Stakeholder Submission to the Review of the Civil Legal Aid Scheme'

⁷⁹ NDA (2021) 'Report on the Operation of the Irish Sign Language Act 2017 2021'.

127. The Law Society highlights serious issues regarding access to justice for people with disabilities in their submission to the Draft Report to the UNCRPD. The Law Society recommends that the Workplace Relations Court (WRC) functions under the Equal Status Acts are transferred to a separate, standalone body or that a separate division of the WRC be established under a new name. Also, the State must ensure the availability of legal aid for complaints of discrimination before the WRC.⁸⁰
128. There is a need to ensure the right of access to the law and the legal system for all Irish citizens, particularly making access available at the start of the criminal justice process, at arrest stage, as well as right through to the court system.
129. The NDA highlights that Section 12 of the Mental Health Act 2001 has been criticised as individuals are brought to a Garda station rather than a medical facility, even though they may not have committed a criminal offence. Provisions to allow An Garda Síochána (AGS) take a person directly to a mental health facility are highlighted as a serious curtailment of the rights of the individual, as it would bypass not only the application step under the updated Act, but also the examination of the person by a GP.⁸¹
130. Under the reform of the Mental Health Act 2001, the role of Authorised Officers⁸² may be expanded so the AGS shall immediately contact an authorised officer who shall review the person and if appropriate will then arrange for a registered medical practitioner to carry out an examination of the person. At each stage consideration will be given to what supports are available to the individual, including any family support.⁸³ However, there are concerns from AGS on the practical issues involved with restricting the making of an application under Section 12 of the Mental Health Act 2001 to just Authorised Officers.⁸⁴

⁸⁰ Law Society (2021) 'Submission on the Draft Initial State Report under the United Nations Convention on the Rights of Persons with Disabilities.' Available at: [2021-submission-uncrpd-report.pdf \(lawsociety.ie\)](#). (Accessed 10 January 2024).

⁸¹ Department of Health (2022) 'High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector Final Report.' Available at: [Link](#)

⁸² An authorised officer means an officer of the HSE who is of a prescribed rank or grade and who is authorised by HSE to exercise these powers.

⁸³ Sub-Committee on Mental Health (2022) 'Report on Pre-Legislative Scrutiny of the Draft Heads of Bill to Amend the Mental Health Act 2001'. Available at: [Report on Pre-Legislative Scrutiny of the Draft Heads of Bill to Amend the Mental Health Act 2001 \(oireachtas.ie\)](#) (Accessed 10 January 2024).

⁸⁴ Department of Health (2022). 'High Level Task Force to consider the mental health and addiction challenges of those who come into contact with the criminal justice sector Final Report.'

131. The Oireachtas Sub-committee on Mental Health highlights that stakeholders from the voluntary sector have called for a statutory right to access community mental health services stating this will contribute to a reduction in the number of cases that evolve into more complex mental health difficulties.⁸⁵ The Sub-Committee notes that the right to community mental health services should be outlined in the updated Mental Health Act. A right to community mental health services would ensure, as outlined by NUI Galway, alternatives to inpatient services are available and will support the State in meeting its obligations to eliminate coercion in mental health services.⁸⁶ This would need to be developed in line with expanding the MHCs regulatory remit to inspect and monitor all community mental health services. The MHC must be further resourced to deliver this expanded role.
132. The Committee heard from Professor Gulati, 1 July 2021, that it is important to recognise disability at the start of a pathway to prevent trans-institutionalisation⁸⁷ and enable the right supports to be provided. Professor Gulati noted a study which highlighted that people with intellectual disabilities feel confused, frightened, and perplexed and have great difficulty communicating at the point when they are arrested or are in police custody and police highlighted that they need more training because they need to be able to recognise the disability.⁸⁸
133. The Committee heard from Professor Kelly, 31 March 2022, who noted that ‘prison is toxic for people with mental illnesses’. Professor Kelly also highlighted insight from the Inspector of Mental Health Services who noted that Ireland has an excellent but under-resourced and overworked court diversion service and people who are severely mentally ill are locked in isolation units and other areas of prisons awaiting mental health care. Professor Kelly highlighted the need for prison in-reach and court liaison services in all areas.⁸⁹ The consequences of an absence of rehabilitative, mental health and community services to divert people with

⁸⁵ Sub-Committee on Mental Health (2022) ‘*Report on Pre-Legislative Scrutiny of the Draft Heads of Bill to Amend the Mental Health Act 2001*’, pp. 74.

⁸⁶ NUI Galway (2021) ‘*Submission to the Department of Health Public consultation on draft legislation to update the Mental Health Act 2001.*’ Available at: [Microsoft Word - Submission DOH with Comments.docx \(universityofgalway.ie\)](#) (Accessed 10 January 2024).

⁸⁷ A process whereby individuals, supposedly deinstitutionalised as a result of community care policies, in practice end up in different institutions, rather than their own homes.

⁸⁸ Joint Committee on Disability Matters (2021), Public Meeting 1 July 2021. Available at: [main.pdf \(oireachtas.ie\)](#). (Accessed 10 January 2024).

⁸⁹ Joint Committee on Disability Matters (2021), Public Meeting 31 March 2022. Available at [main.pdf \(oireachtas.ie\)](#) (Accessed 10 January 2024).

disabilities and mental health issues to services that will adequately support them is evident.

134. IHREC note that the enactment of Criminal Justice (Hate Crime) legislation in Ireland will be critically important for Ireland’s implementation of its obligations under human rights law. IHREC draws particular attention to the need for active engagement with persons with disabilities, particularly DPOs, in the decision-making processes and recommends broader engagement to understand the nature and effect of incitement to hatred and hate crime on these respective groups and consider whether these groups should also be protected under the legislation.⁹⁰

The Committee recommends

Number	Recommendation
35	The Department of Justice must ensure meaningful engagement with persons with disabilities, particularly through DPOs, on the Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022.
36	The Department of Justice must ensure the inclusion of persons with disabilities and DPO’s in the membership of the Civil Legal Aid Review Group and make a provision for legal aid for employment and discrimination claims brought before the Workplace Relations Commission.
37	The Department of Health must ensure reform of the Mental Health Act 2001 to ensure alignment with the UNCRPD and introduce a right to community mental health services, in line with expanding and resourcing the MHCs role in monitoring community mental health services.

⁹⁰ IHREC (2022). ‘*Submission on the General Scheme of the Criminal Justice (Hate Crime) Bill* Irish Human Rights and Equality Commission.’ Available at: [Submission on the General Scheme of the Criminal Justice \(Hate Crime\) Bill \(ihrec.ie\)](#). (Accessed 10 January 2024).

Article 14 Liberty and security of person

Indication of overall progress

No Progress

Number	Indicators
1	National constitution and legislation that recognizes the right to liberty and security of person of all persons with disabilities on an equal basis with others
2	Legal requirement to collect data on the number of persons with disabilities deprived of liberty, disaggregated by sex, age, disability, ground of detention and place of detention (e.g., psychiatric institution, residential institution, prison, etc.; both public or privately run)
3	Legal requirement to establish a marker on spending related to ensure the right to liberty and security of persons with disabilities
4	No provision in the constitution and/or in legislation which, directly or indirectly, allows any kind of deprivation of liberty on the basis of actual or perceived impairment, either alone or in combination with other grounds (e.g., care, treatment, risk to self or others, etc.) or as a result of attitudinal, environmental, information, or communication related barriers
5	Adoption of transitional legislation, policies and/or plans to secure the immediate release of persons with disabilities deprived of liberty on the basis of an actual or perceived impairment, including those deprived of liberty in mental health inpatient settings, and the immediate cessation of restrictive and coercive measures including forced treatment
6	Legislation that provides for a criminal and penitentiary system inclusive of persons with disabilities (e.g., accessible and inclusive procedures, facilities and services in detention)
7	Legislation that ensures that all administrative detention systems (e.g., immigration detention) are inclusive of persons with disabilities, gender responsive and age-

appropriate (e.g., accessible and inclusive procedures, facilities and services in detention)

8	Adoption of legislation and policies to promote the use of restorative justice mechanisms and non-custodial measures to prevent incarceration
9	Adoption of mandatory accessibility standards applied to prisons and other centres of detention
10	Provision in legislation ensuring the obligation to provide reasonable accommodation to persons with disabilities deprived of their liberty
11	Provision in legislation prohibiting the use of seclusion and any method of restraint which are medically ordered (physical, chemical and mechanic, etc.) and the use of psychiatric medication or other interventions without the free and informed consent of the person concerned, including on persons with disabilities

Conclusions and recommendations

135. The commencement of the Assisted Decision Making (Capacity) (Amendment) Act 2022 replaced the wardship system with a new decision support framework that will support individuals having difficulty because they have reduced or no decision-making capacity.
136. The Mental Health Act 2001 provides safeguards for those involuntarily admitted and detained in approved centres and puts in place mechanisms for the regulation and inspection of mental health services. Mental health legislation was overhauled in 2001 to bring it in line with international human rights standards, however, there are concerns that the 2001 Act is out of line with developments both domestically and internationally.⁹¹ The Mental Health Act 2001 is currently under review by the Department of Health.
137. Legislation is required on the issue of deprivation of liberty to meet obligations of Article 14 of the UNCRPD and to complement the Assisted Decision Making

⁹¹ Oireachtas Library & Research Service (2012). 'Spotlight No. 5 The Mental Health Act 2001: Delivering on best practice?'. Available at: [2012-05-31_spotlight-the-mental-health-act-2001-delivering-on-best-practice_en.pdf \(oireachtas.ie\)](https://www.oireachtas.ie/publications/spotlight-the-mental-health-act-2001-delivering-on-best-practice-en.pdf). (Accessed 10 January 2024).

(Capacity) (Amendment) Act 2022 and the Mental Health Act 2001. The NDA highlight that the absence of protection of liberty legislation is a significant gap in the State's compliance with the UNCRPD.⁹²

138. Research undertaken by NUI Galway and commissioned by the UN Office, Geneva highlights that persons with disabilities are often hospitalised, institutionalised, or diverted into other forms of detention from the criminal justice system without their consent, on the grounds of an actual or perceived impairment. Most states have no data on the number of persons deprived of liberty detained in psychiatric facilities and institutions. This research further highlights institutionalisation beyond psychiatric facilities (for example in social care institutions, group homes or nursing homes) is not typically recognised as a deprivation of liberty in most national legal frameworks. One of the reviewed studies conducted in Ireland found that the experiences that led to coercion in psychiatric hospitalisation included the perception that an alternative treatment would have been more appropriate, the insufficient involvement in the admission and treatment process and not feeling respected and cared for by professionals.⁹³
139. NUI Galway recommend that to fully realise Article 14 of the UNCRPD, it is not sufficient to simply abolish the legal frameworks which permit disability-specific deprivations of liberty, rather the right to liberty must be made effective in practice, including through the availability of practical supports and freedom from coercion in the communities in which persons with disabilities live. Deprivation of liberty legislation is required to ensure procedural safeguards for people who consent to their care arrangements in relevant health and social care facilities. These safeguards will be the subject of separate legislation which is currently being prepared by the Department of Health.
140. The Committee heard from Professor Gulati, 1 July 2021, who highlighted the lack of existing data on the prevalence of intellectual disabilities among the prison population in Ireland and the need to improve screening tools and develop care pathways for prisoners with intellectual disabilities. However, research undertaken

⁹² NDA Independent Assessment of Implementation of the NDIS, pp. 16.

⁹³ NUI Galway (2019). *'Disability-specific forms of deprivation of liberty'*. Available at: [Microsoft Word – DoL Report Final.docx \(universityofgalway.ie\)](#). (Accessed 10 January 2024).

by Professor Gulati highlights that nearly one in three people in Irish prisons screen positive for an intellectual disability. The World Health Organisation Europe highlights that with regard prison health in Europe the most prevalent condition among people in prison was mental health disorders, which affected 32.8% of the prison population.⁹⁴

141. During its proceedings the Committee were concerned to hear how common pharmacological restraint is, where anti psychotics and psychiatric drugs are used to manage behavioural issues in children at home when these individuals and children have no mental health issues. This is happening because of a lack of early intervention and access to services to support these individuals and families. The Committee also heard that 50% of people with intellectual disability in Ireland who are on antipsychotic medication may not have psychotic symptoms. The MHC report on CAMHS also highlights an absence of monitoring of certain medications in CAMHS services. This highlights the depth of the medical model of disability in Ireland in that pharmacological restraint is used in place of appropriate services and supports.
142. The recommendation to introduce legislation that identifies a target date for Ireland to become fully accessible and that can ensure the mobilisation and coordination of the multiple, and cross sectoral actors that have responsibility for accessibility under Article 9, must ensure the criminal and penitentiary system in Ireland is inclusive of all persons with disabilities (e.g., accessible, and inclusive procedures, facilities, and services in detention).
143. The Committee believe that better coordination and sequencing is needed across relevant departments with regard interactions of legislation to implement the Convention and to limit the impact of legislative gaps on human rights for people with disabilities.

⁹⁴ World Health Organization Europe (2023). 'One-third of people in prison in Europe suffer from mental health disorders.' Available at: [One-third of people in prison in Europe suffer from mental health disorders \(who.int\)](https://www.who.int/news-room/fact-sheets/detail/mental-health-disorders). (Accessed 10 January 2024).

The Committee recommends

Number	Recommendation
38	The Department of Health must prioritise the Protection of Liberty Safeguards Bill 2017 and ensure consultation with people with disabilities and DPOs.
39	The Department of Health must ensure there is no provision in the Protection of Liberty Safeguards Bill 2017 which, directly or indirectly, allows any kind of deprivation of liberty on the basis of actual or perceived impairment, either alone or in combination with other grounds (e.g., care, treatment, risk to self or others, etc.) or as a result of attitudinal, environmental, information, or communication related barriers.
40	The Department of Health must ensure there is an obligation in the Protection of Liberty Safeguards Bill 2017 to collect data on the number of persons with disabilities deprived of liberty, disaggregated by sex, age, disability, ground of detention and place of detention (e.g., psychiatric institution, residential institution, prison, etc.; both public or privately run).
41	The State must eliminate the practice of using pharmacological restraint on children and adults with disabilities and develop human rights-based disability and mental health provisions.

Article 15 Freedom of torture or cruel, inhuman or degrading treatment or punishment

Article 17 Protecting the integrity of the person

Indication of overall progress

No Progress

Number	Indicators
1	Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)
2	Designation or establishment of one or several independent national preventive mechanisms for the prevention of torture (Article 17 of the OPCAT)
3	Legislation enacted to prohibit and criminalize torture, ill-treatment, non-consensual medical, scientific or social experimentation, interventions or treatment, including the non-consensual administration of drugs, and other violations to the physical and mental integrity of persons with disabilities, wherever they take place, with proportionate sanctions, and the provision of free legal aid, effective remedies, redress and reparation, including restitution, compensation, satisfaction and guarantees of non-repetition, rehabilitation and support services to victims with disabilities (including supported decision making if requested) within the community
4	Legislation that prohibits and protects children with disabilities from corporal punishment, and treatments and interventions such as behaviour modification, growth attenuation therapy, chemical or physical restraint, and other invasive and irreversible treatments including in homes, schools, day-care centres and institutional care settings
5	Legislation enacted which: <ul style="list-style-type: none">Recognizes the right to free and informed consent to medical treatment, and the right to refuse treatment, of every individual at all times, regardless of their legal capacity status, condition of liberty, including in situations of mental distress;

- Prohibits discrimination in the exercise of free and informed consent, including the denial of reasonable accommodation;
- Ensures that all health information and consent forms are fully accessible and culturally appropriate;
- Requires health care providers to act in accordance with advance directives, powers of attorney and other forms of supported decision-making for health care decisions

6	Legislation enacted that protects persons with disabilities from and prohibits medical experimentation, including the use of experimental or insufficiently tested drugs and treatment methods without the free and informed consent of the person concerned
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7	Legal requirement to collect and disaggregate data on persons with disabilities deprived of liberty in the institutional settings where deprivation of liberty of persons with disabilities might occur, disaggregated by age, sex, disability and ground of detention
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Conclusions and recommendations

144. Article 15 of the UNCRPD requires that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation. The UN Committee highlights concern about the continuous occurrence of seclusion, physical, chemical, and mechanical restraints, and other forms of ill-treatment in family settings, psychiatric institutions, hospitals, prisons, and educational services, particularly for persons with intellectual disabilities and persons with psychosocial disabilities.⁹⁵
145. Article 17 of the Convention requires that every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.
146. Inappropriate use of seclusion and restraint can occur in residential settings, health and social care, and mental health settings, as well as schools. Some children with disabilities, specifically intellectual disability, are experiencing unregulated seclusion and restraint in schools.⁹⁶ With regard to Approved Centres for mental

⁹⁵ Committee on the Rights of Persons with Disabilities, *Concluding observations on the combined second and third periodic reports of the Republic of Korea*.

⁹⁶ [shining-light-seclusion-and-restraint-schools-ireland.pdf \(inclusionireland.ie\)](#)

health care, the MHC report that episodes of physical restraint and the number of residents undergoing physical restraint have continued to decrease since 2019. This is in contrast to the steady increase in physical restraint observed between 2008 and 2018. While seclusion episodes have generally decreased since 2008, the use of physical restraint has not decreased significantly.⁹⁷

147. The Committee are concerned about the impact these practices have on people with disabilities and mental health issues. The Committee believe that the Mental Health Act 2001 must be revised to prohibit the use of seclusion or restraint except in life saving/emergency situations across all settings and including pharmacological restraint.
148. Many autistic people and autistic DPOs both nationally and internationally consider behavioural interventionist therapies to be restrictive, dehumanising and impact their human rights. Current research highlights significant controversy in the field of Applied Behavioural Analysis (ABA) between the application of humanistic and behaviouristic tenets and evidence about the effectiveness of these interventions remains unclear.⁹⁸ The Committee support AsIAM's call for much greater regulation so that services can deliver rights-based supports. The Committee agree that there is a need for State Bodies to work with autistic people and their representative organisations to develop ways to support autistic people that are in line with the UNCRPD.
149. The MHC told the Sub-Committee on Mental Health that access to the Decision Support Service (DSS) pursuant to the Assisted Decision-Making (Capacity) (Amendment) Act 2022 should be a feature of care and available in every environment.⁹⁹
150. The Assisted Decision Making (Capacity) (Amendment) Act 2022 will enable assisted decision-making supports to be extended to most people who receive involuntary care or whose treatment is regulated by Part 4 of the Mental Health Act 2001. In the

⁹⁷ Mental Health Commission (2021). *'The Use of Restrictive Practices in Approved Centres September 2022 Seclusion, Mechanical Restraint and Physical Restraint Activities Report 2021'*.

⁹⁸ Rodgers, M., et al. (2021). 'Intensive behavioural interventions based on applied behaviour analysis for young children with autism: An international collaborative individual participant data meta-analysis.' *Autism*, 25(4), 1137–1153. Available at: <https://doi.org/10.1177/1362361320985680>. (Accessed 10 January 2024).

⁹⁹ Sub-Committee on Mental Health (2022) *'Report on Pre-Legislative Scrutiny of the Draft Heads of Bill to Amend the Mental Health Act 2001'*.

absence of reform of the Mental Health Act 2001, the provision cannot be extended to Section 3(1)(a) category which relates to people who are likely to cause serious and immediate harm to themselves or others. The Committee are aware that in relation to the use of "immediate and serious harm" there are individuals who feel that this is weaponised against them to get their co-operation in situations where they would otherwise prefer not to. There is a need to enhance these protections.

151. The Committee supports the recommendations of the Sub-Committee on Mental Health for a stronger focus on a human rights-based approach and the UNCRPD in mental health legislative reform. In addition, this reform must be accompanied by State measures to establish a nationally consistent legislative and administrative framework for the protection of all persons with disabilities, including children, from the use of psychotropic medications, physical restraints, and seclusion. This reform requires investment in community-based support and services for persons with psychosocial disabilities and assisting persons to utilise the Assisted Decision Making (Capacity) Act 2015 to exercise their capacity.
152. As highlighted by the HSE, female genital mutilation (FGM) is defined as the partial or total removal of the external female genitalia, or any practice that purposely changes or injures the female genital organs for non-medical reasons. The practice is internationally recognised as a human rights violation of women and girls. The Criminal Justice (Female Genital Mutilation) Act 2012 makes it a criminal offence to remove a girl from the state to mutilate her genitals. The HSE further notes that the level of FGM continues to increase in Ireland. The 2015 European Institute for Gender Equality (EIGE) Report suggests that the number of girls at risk of FGM in Ireland is between 158 (low-risk scenario) and 1,632 (high-risk scenario).¹⁰⁰
153. In 2017, AkiDwA estimated that 5,790 women and girls living in Ireland had undergone FGM based on 2016 data collected by the CSO. Considering women and girls who have undergone this mutilation may present in various health-care settings, there is a need for more FGM-related child protection interventions in Ireland. The Committee support the JCCEDIY recommendation that suspected

¹⁰⁰ <https://www.hse.ie/eng/about/who/primarycare/socialinclusion/domestic-violence/female-genital-mutilation-fgm/>

intent to perform forced marriage and female genital mutilation should be named explicitly as criteria for an emergency care order.¹⁰¹

154. The OHCHR recommend ratification of the Optional Protocol to the UN Convention against Torture and All Forms of Cruel, Inhuman or Degrading Treatment of Punishment (OPCAT) and the establishment of a National Preventative Mechanism (NPM) to independently monitor places of detention, and to provide detail on the establishment, resourcing and data access of the national preventative mechanism and the involvement of civil society organisations in the operation of OPCAT. IHREC highlight how important ratification is in that it would allow unfettered access and increased independent inspection of all places of detention, including Garda stations, but also including care and residential settings.
155. The General Scheme of the Inspection of Places of Detention Bill 2022 will provide legislation to allow Ireland to ratify OPCAT. The Committee continue to highlight that people with disabilities experience significant institutionalism, reside in inappropriate settings that may not be appropriate or in line with their will and preference, are overrepresented in prisons and have their rights impacted. There is also a significant underreporting with regard the issues people with disabilities experience and subsequently the impact on their rights.
156. According to the Irish Council for Civil Liberties (ICCL) the only people with disabilities provided for in the Department of Health's Deprivation of Liberty Safeguard Proposals are persons who are deprived of their liberty under the Mental Health Act 2001. The ICCL state that the proposals must also legislate for persons with disabilities deprived of their liberty de facto through guardianship or a lack of community-based services.¹⁰²

¹⁰¹ Joint Committee on Children, Equality, Disability, Integration and Youth (2023). *'Report on pre-legislative scrutiny of the General Scheme of a Child Care (Amendment) Bill 2023'*.

¹⁰² Department of Health (2019). *'The Deprivation of Liberty Safeguard Proposals: Report on the Public Consultation'*.

The Committee recommends

Number	Recommendation
42	The Department of Justice must prioritise the Inspection of Places of Detention Bill 2022 and ensure alignment with the Convention as well as actively consulting with people with disabilities.
43	Consideration of the repeal of all legal provisions that legitimise non-consensual psychiatric treatment on the grounds of perceived or actual impairment and that reform of the Mental Health Act 2001 ensures a move to restraint free environments.
44	The State must eliminate in law, policy and practice all forms of forced medical procedures and treatment, and the use of chemical, physical and mechanical restraints, isolation, and seclusion, as required by the UN Committee to align with Article 15.
45	The State must take effective measures to ensure that the living conditions of people with disabilities in institutions and facilities of any kind respect the dignity of these individuals and comply with the provisions of Article 15 of the Convention.
46	Eliminate the use of forms of seclusion and restraint for reasons related to disability in <u>all</u> settings.

Article 16 Freedom from exploitation, violence and abuse

Indication of overall progress

Limited Progress

Number	Indicators
1	Legislation criminalising, protecting against and preventing all forms of violence, abuse and exploitation inclusive of persons with disabilities, with sanctions for perpetrators and effective remedies for victims
2	No provision in legislation which permits exemption from criminalization of non-consensual practices of any kind, including those based on a restriction/denial of legal capacity, or actual or perceived impairment of the victim and/or the determination of best interest by a third party
3	Adoption of national plan/policy to prevent, detect, and combat violence, abuse, and all forms of exploitation with explicit reference to persons with disabilities which addresses the particular needs of women, children and older persons and persons with all types of impairment in private and public settings
4	Programmes adopted for the recovery, rehabilitation and social reintegration of victims of violence, abuse and exploitation, including the provision of protection against retaliation and assistance services, including shelter and housing, are culturally appropriate, non-discriminatory and inclusive of persons with disabilities
5	Statutory requirement to collect data on complaints, investigations, and convictions related to violence, abuse and exploitation of persons with disabilities disaggregated by sex, age, disability and form of violence, abuse and exploitation

Conclusions and recommendations

157. The State has identified the prevalence of domestic, sexual and gender-based violence (“DSGBV”) in Ireland as “disturbingly high”.¹⁰³ Children and adults with

¹⁰³ L. Foley (2022). UCD Geary Institute for Public Policy, University College Dublin. ‘Gender-based Violence in Ireland’. Available at: [Domestic-Sexual-and-Gender-Based-Violence-in-Ireland.pdf \(publicpolicy.ie\)](#). (Accessed 10 January 2024).

disabilities are more likely to experience violence than their non-disabled peers and those with intellectual disabilities are most at risk.¹⁰⁴ The Committee heard that people with disabilities can be trapped in violent and abusive situations in institutions or at home with little to no access to support services.

158. The Government has noted in its Zero Tolerance Strategy 2022-2026 that certain groups can be at higher risk of DSGBV than others for a variety of reasons including poverty, exclusion, disability, legal status, ethnicity, sexuality, language barriers, addiction, and mental health issues. Specific groups identified include disabled people, international protection applicants, individuals living in direct provision (including women being targeted for prostitution), trafficked persons including young gay men being trafficked for prostitution, as well as Travellers, Roma, and members of the LGBTI+ community.¹⁰⁵
159. There is a strong focus placed on adult safeguarding and standard setting through the roles of the Health Information and Quality Authority (HIQA) and the MHC (regulatory bodies) and the National Safeguarding Office in the HSE. HIQA has stated that in the absence of specific safeguarding legislation for adults to prevent and protect adults from the risk of abuse, the Health Act 2007 (as amended) places limited obligations on providers and persons in charge to put in place arrangements to protect residents from abuse, to investigate and to act where allegations of abuse have arisen.
160. Work is underway on the Health (Adult Safeguarding) Bill 2017 to underpin a planned national health sector policy on safeguarding vulnerable or at-risk adults in the context of their interactions with the health sector. A report on the regulatory framework, and the Law Reform Commission's recommendations on same, is expected to be published. The Committee agree with the NDA that the lack of a regulatory framework for adult safeguarding is concerning and is a significant gap in protecting the rights of disabled people.¹⁰⁶

¹⁰⁴ L. Jones et al., (2012) [Prevalence and risk of violence against children with disabilities: a systematic review and meta-analysis of observational studies - PubMed \(nih.gov\)](#). Lancet.

¹⁰⁵ Department of Justice (2022). 'Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022- 2026', p. 44.

¹⁰⁶ NDA Independent Assessment of Implementation of the NDIS, pp. 17

165. The Committee support the Joint Committee on Justice recommendations that membership of Cuan should be diverse and representative of Ireland's changing demographic and that the legislation include a formal structure to ensure that there is regular consultation between civil society organisations and the Agency which includes a mechanism for victims to contribute directly to its work. The Committee recommend that DPOs are specifically included in this consultation, and that the agency have a human rights mandate. IHREC recommends that service providers take measures to ensure the accessibility of specialist support services to structurally vulnerable groups.

The Committee recommends

Number	Recommendation
47	Safeguarding obligations on providers to put in place arrangements to protect residents from abuse, and to take action and investigate where allegations of abuse have arisen, as well as a process of enforcement.
48	The definition of a 'relevant person' must be extended under the Domestic Violence Act 2018 to include all individuals who experience domestic violence and safeguard victims.
49	That Cuan has a mandate to ensure that DSGBV service providers are accessible to people with disabilities as well as ensuring the provision of ISL interpretation services and accessible information regarding services for victims or persons at risk of DSGBV.

Article 18 Liberty of movement and nationality

Indication of overall progress

No Progress

Number	Indicators
1	<p>Legislation enacted to:</p> <ul style="list-style-type: none">• ensure the right of persons with disabilities to enter or leave the country on an equal basis with others;• ensure non-discrimination based on impairment within eligibility criteria for entering or leaving the country;• ensure the provision of reasonable accommodation in national entry/exit procedures and related proceedings
2	<p>Legislation enacted to:</p> <ul style="list-style-type: none">• ensure the right of persons with disabilities to acquire the nationality of the country on an equal basis with others and not to be deprived of it on the basis of an impairment;• ensure that naturalisation procedures are accessible to persons with disabilities;• ensure the provision of reasonable accommodation in all naturalisation and citizenship procedures and proceedings
3	<p>Legislation enacted to:</p> <ul style="list-style-type: none">• ensure the right of persons with disabilities to accessible and affordable procedures to obtain identification documents;• ensure the provision of reasonable accommodation in all procedures to obtain identification documents
4	<p>Legislation enacted:</p> <ul style="list-style-type: none">• to ensure universal free registration of all children immediately after birth;• to earmark funds to ensure universal, free and timely birth registration across the jurisdiction;• with a statutory obligation to disaggregate birth registration data by sex, disability, geographical location and migrant status of the parents

- 5 No provision in legislation which restricts the right to liberty of movement, acquisition of nationality and identification documents, nor limits entitlement to services to migrants on the basis of disability
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Conclusions and recommendations

166. The UN Refugee Agency states that at least 89.3 million people around the world have been forced to flee their homes and that among them are nearly 27.1 million refugees, around half of whom are under the age of 18. There are also millions of stateless people, who have been denied a nationality and lack access to basic rights such as education, health care, employment, and freedom of movement.¹¹¹ Estimates of the number of environmental migrants by 2050 range from 25 million to 1 billion.¹¹²
167. However, no official international statistics exist on the global prevalence of disability within the persons on the move population, and at best, there are estimates. In 2020, an estimated 12 million people in the forced displacement population were persons with disabilities, but the prevalence is likely higher.¹¹³
168. There are challenges in ensuring that refugees can access human rights because of citizenship gaps in human rights coverage for ‘people out of place’ whether physically displaced refugees, marginalised minorities and women, or bearers of deflated socioeconomic rights.¹¹⁴ It is important to ensure a rights-based approach to refugee protection and assistance in Ireland.
169. There is a requirement to ensure the rights of asylum seekers with disabilities through the international protection system in Ireland.
170. IHREC has repeatedly expressed concerns about the changes to family reunification law particularly in the context of the migration situation in Europe and the introduction of the Irish Refugee Protection Programme in relation to International Protection Act 2015. IHREC calls for family reunification law and policy to be

¹¹¹ [Figures at a glance | UNHCR Ireland](#)

¹¹² [Climate migration and education: are we making our education systems future-proof? - UNICEF UK](#)

¹¹³ [Disability and human mobility | Migration data portal](#)

¹¹⁴ Brysk, A. The Future of Human Rights, pp. 26.

strengthened and expanded, to facilitate safe and legal pathways for family members of refugee communities in Ireland.¹¹⁵

171. The European Commission highlight that persons with disabilities have an equal right as EU citizens to move freely within the EU, however, their disability status is not always recognised across Member States. As a result, when persons with disabilities visit another Member State, they might not have access to the same conditions and preferential treatment, such as free and/or priority access, reduced fees and personal assistance, or reserved parking spaces that are available to those with recognised disability status in that Member State.¹¹⁶ The European Commission has proposed the introduction of an European Disability Card to ensure that non-nationals with disabilities who are EU citizens have access to the same special conditions and “preferential treatments” as nationals when temporarily visiting other EU countries.

The Committee recommends

Number	Recommendation
50	DCEDIY must ensure that the Equality Data Strategy includes the systematic collection of data on the living conditions of refugees, traveller, and Roma persons with disabilities, citizens and non-citizens, and the fulfilment of their rights under the Convention.

¹¹⁵ IHREC (2018). ‘The right to family reunification for beneficiaries of international protection’. Available at: [Microsoft Word - Policy statement The right to family reunification for beneficiaries of international protection.docx \(ihrec.ie\)](#). (Accessed 10 January 2024).

¹¹⁶ [European Disability Card \(europa.eu\)](#)

Article 19 Living independently and being included in the community

Indication of overall progress

Regressive

Number	Indicators
1	Legislation enacted recognizing the right to live independently and be included in the community as an enforceable right of all persons with disabilities ensuring their individual autonomy and control over their life, regardless of impairment and required level of support
2	Adoption of a comprehensive national strategy and/or plan with timeframes and measurable goals to implement this right, including the availability of a range of housing options and support services
3	Adoption of a national strategy and/or plan to achieve deinstitutionalization of all children and adults with disabilities with benchmarks, timeframes and measurable goals
4	Adoption of a moratorium on new admissions through forced institutionalization of persons with disabilities
5	Adoption of a moratorium on new admissions to institutions of children with disabilities
6	Legal provisions protecting persons with disabilities against forced evictions on an equal basis with others, in all forms of housing tenure (ownership, formal rental agreements, informal settlements, etc.) and ensuring continuous provision of housing and necessary support.
7	Legal requirement to collect data on the number and proportion of persons with disabilities exercising the right to choose their living arrangements, including those leaving institutions into community life, and accessing support services for living independently.

8	Legal requirement to establish a marker on all spending related to the exercise by persons with disabilities of the right to choose their living arrangements and access support services for living independently
9	No legal provision restricting directly or indirectly the right of persons with disabilities to choose where and with whom to live on equal basis with others
10	Adoption of mandatory accessibility standards for housing accessible to all persons with disabilities
11	Adoption of a national strategy and/or plan to ensure the availability and affordability of housing options, including accessible and adaptable units, for persons with disabilities, across all areas of the community
12	Adoption of a national strategy and/or plan to develop and increase the access, availability and diversity of support allowances and services for persons with disabilities, including “person-directed/user”-led human support, support tailored to situations of mental distress, psychosocial crisis and other intermittent or emergent needs, and the provision of assistive devices and technologies
13	Availability of support measures, including home support, peer counselling and financial support or allowance for persons with disabilities and those relatives and/or others with whom the person decides to live
14	Adoption of a national policy to ensure support to families of children with disabilities to prevent family separation, including the provision of appropriate and adequate social services for quality family-based alternative care options, to ensure the right of children with disabilities to a family life and inclusion in the community
15	Adoption of uniform national accessibility standards respected and ensured by all mainstream services, including all public administration and private facilities providing services to the public
16	Adoption of a strategy or plan(s) to ensure the universal design, accessibility, cultural appropriateness, and responsiveness of mainstream services to persons with disabilities, including the provision of reasonable accommodation to persons with disabilities

Conclusions and recommendations

172. People with disabilities have a human right to live independently, in their local communities, with the right supports, as required by Article 19 of the UNCRPD. Living independently in the community requires the transition to a human rights-based model of service based on individualised supports.
173. The UN guidelines ‘Moving people out of institutions’ highlight the significantly low quality of life that people with disabilities have in institutions, and other similar settings, including hospitals and group homes. These guidelines also show governments how to move people from institutions without them losing their rights by undertaking the following;
- any laws that support institutions or create new institutions should be removed
 - any laws or rules that stop people from making their own decisions should be removed
 - governments must stop spending money on these laws and institutions. Instead, governments must spend money on support for persons with disabilities, to help them be part of their local communities (of their choice)
 - any plans to help communities must include people who are leaving institutions and moving into the local community (of their choice)¹¹⁷
174. The Committee has made a series of recommendations in the report ‘Ensuring independent living and the UNCRPD’ to incorporate a right to independent living in domestic law to ensure that people with disabilities have a right to live independently. In addition, the Committee has called for the development of a national plan for the realisation of the right to independent living including support for agencies to reconfigure their services to support this and the introduction of a public sector inclusion objective which would apply to all public bodies to adhere to Article 19.
175. The Programme for Government aims to reduce the number of people living in congregated settings by at least one third by 2021 and to ultimately close all

¹¹⁷ United Nations High Commissioner on Human Rights (2022). ‘*Moving people out of institutions United Nations guidelines.*’ Available at: [Chosen_P_PFKK_CERVilu-04-07-2022.pdf \(ohchr.org\)](#). (Accessed 10 January 2024).

congregated settings. The NDA amongst others, highlights that this target has not been met, and the HSE has not produced detailed data on decongregation since 2019. There are also inconsistencies in the data. State Parties are also prohibited from taking retrogressive measures with respect to the minimum core obligations of the right to live independently within the community.¹¹⁸

176. The vision and equality of choice highlighted in the Time to Move on from Congregated Settings (TTMO) report calls for all housing arrangements for people moving from congregated settings to dispersed housing in the community, with supports designed to meet their individual needs. The report also recommends that the home-sharing arrangement should be confined to no more than four residents in total and that those sharing accommodation have, as far as possible, chosen to live with the other three people. The Committee heard that people are being transitioned from congregated settings to smaller group homes without being given any choice. The Committee continue to be concerned that this does not capture the idea of choice, and the obligations of the State regarding Article 19 of the UNCRPD and the original vision of the TTMO report. The Committee were also concerned to hear about a group home that included 12 people and where pharmacological restraint was used to manage behavioural issues.
177. The planned development and pilot projects for Local Area Coordination which are to support inclusive living in communities did not go ahead and there are reports of a lack of engagement of Local Authorities with the NDIS.¹¹⁹ The Committee believe that this is a significant gap and continue to recommend that the UNCRPD Implementation Plan target action and progress at Local Authority level and that the new NDIS steering group include Local Authority representation.
178. Ireland's review in February 2023 by the UN Committee on the Rights of the Child raised significant concerns regarding children's mental health services which it described as "insufficient and inadequate". There are long waiting lists and children are often placed in adult psychiatric wards. The Committee are concerned that reporting on the actions to progress mental health services, particular for children,

¹¹⁸ United Nations Committee on the Rights of Persons with Disabilities. 'General comment No. 5 (2017) on living independently and being included in the community.' CRPD/C/GC/5.

¹¹⁹ NDA Independent Assessment of Implementation of the NDIS, pp. 40.

by the Department of Health and the HSE, seems to demonstrate a lack of prioritisation or urgency around progress.¹²⁰

179. This highlights the impact of the absence of infrastructure, therapists, rehabilitative and mental health supports in communities which along with the current design of the long-term care system and insufficient coordination across sectors, sustains the institutionalism of people in various types of congregated settings, or in their own homes.
180. As previously mentioned, IHREC recommend legislation aimed at ensuring that less restrictive forms of treatment in the community are available and the ultimate eradication of coercion in the treatment of persons with psychosocial disabilities.¹²¹
181. The Committee heard that in 2022 there was 6,200 individuals on a Home Care Provision waiting list because, although their home care provision has been funded, the workforce is not available to deliver the service.
182. An evaluation of the Personalised Budgets demonstration project by the HSE and NDA is delayed. The NDA, amongst others have highlighted that the draft regulations for health-funded home support services which proposes that Personal Assistants be regulated, needs to clarify the distinction between home support services and personal assistant services. The Department of Health need to consult with disabled people who use Personal Assistants.
183. The Committee also continue to recommend that in the interim disability managers in every CHO Area introduce a personal assistance service for people with disabilities that is needs-led and in the long term introduce a National Personal Assistance Service.
184. The European Semester Country Report for Ireland for 2023, highlights how insufficient provision of community-based social services means people with disabilities are dependent on institutional care. The ageing population in Ireland is also putting considerable pressure on the long-term care system, in terms of both accessibility and sustainability. Similar to healthcare, public expenditure on long-

¹²⁰ NDA Independent Assessment of Implementation of the NDIS, pp. 38.

¹²¹ Sub-Committee on Mental Health Report on Pre-Legislative Scrutiny of the Draft Heads of Bill to Amend the Mental Health Act 2001, pp. 21.

term care is expected to rise due to an ageing population. This rise will be almost double the EU average by 2070, at 1.9 percentage points of GDP in Ireland vs 1.1 percentage points of GDP for the EU. This is driven by one of the highest expected increases in the share of old age dependents in the EU.¹²²

185. Significant challenges regarding adequate funding for the implementation of the Disability Action Plan over its three-year time frame, which is reported as the Government's response to years of underfunding of the disability sector.¹²³ The Action Plan has been developed on foot of the Disability Capacity Review which set out the extra capacity requirements for community disability services up to 2032 to meet unmet need within the services. It is crucial that this plan is adequately funded over its three-year term to ensure that the DCEDIY can expand and reform specialist disability services in line with the UNCRPD, and eliminate waiting lists and unmet need, across community, day, respite, and residential services, as well as personal assistants and home supports.
186. The Service Reform Fund (SRF) is an ambitious national programme of change which is currently helping to expand and sustain social innovation in disability, mental health and homelessness created by the Department of Health, the Department of Housing, Planning, and Local Government, the HSE, the Dublin Region Homeless Executive, Local Authorities, and the Atlantic Philanthropies, in collaboration with Genio, to implement service reform in Ireland in mental health, disability and homelessness.¹²⁴
187. Potential has also existed to use EU Funds more strategically to achieve independent living and be included in the community. The European Social Fund (ESF) has ensured the potential to provide funding for the training (and re-training) of staff while the European Regional Development Fund (ERDF) can simultaneously be used for developing social infrastructure which will support new community-based services.¹²⁵ However, it is reported that a number of significant EU funding

¹²² EU Commission (2023). 'Staff Working Document 2023 Country Report – Ireland.' Available at: [IE_SWD_2023_607_en.pdf \(europa.eu\)](#). (Accessed 10 January 2024).

¹²³ [Disability services' action plan under threat in Budget funding row | Independent.ie](#)

¹²⁴ [Service Reform Fund | Genio](#)

¹²⁵ Office of the United Nations High Commissioner for Human Rights Regional Office for Europe (2012). 'Getting a Life – Living Independently and Being Included in the Community A Legal Study of the Current Use and Future Potential of the EU Structural Funds to Contribute to the Achievement of Article 19 of the United Nations Convention on the Rights of Persons with Disabilities.' Available at: [getting_a_life_art_19_crp_d_and_eu_structural_funds.pdf \(universityofgalway.ie\)](#). (Accessed 10 January 2024).

schemes for Ireland to develop new social housing or boost existing housing stock remain completely underutilised.¹²⁶

The Committee recommends

Number	Recommendation
51	The Government must introduce a rights-based approach to budgeting and development including CRPD compliant Equality Budgeting, to ensure that public and EU funding are not used to deprive human rights for children and adults with disabilities through the redevelopment or building of new institutions as well as using established and accepted human rights standards as a common framework for assessing and guiding sustainable development initiatives.
52	The Government must implement the UN guidelines 'Moving people out of institutions' and in particular ensure that any plans/policies to help communities must include people who are leaving institutions and moving into the local community (of their choice).
53	The Government must commit to adequate ring-fenced funding for the Disability Action Plan for its full term and Department of Public Expenditure, NDP Delivery and Reform must ensure adequate funding for the first year of the plan.
54	The State must introduce legislation to provide a right to independent living and a Public Sector Inclusive Obligation to include provision of broader support for persons with disabilities inclusion in the community as required by Article 19 UNCRPD.
55	The State must introduce a statutory Personal Assistance Service.

¹²⁶ [Ireland failing to access 'lucrative' EU funding to develop social housing, MEP says \(irishtimes.com\)](#)

Article 20 Personal mobility

Indication of overall progress

No Progress

Number	Indicators
1	Legislation enacted to recognize and ensure the right of persons with disabilities to personal mobility, including by ensuring access to mobility, vision, hearing and communication, devices and assistive technologies of the individual's choice and tailored to their individual needs
2	Adoption of a national strategy or policy to address the mobility needs of persons with disabilities, including developing and promoting research and development into low-cost mobility, vision, hearing and communication devices and assistive technologies
3	Legal, regulatory and policy measures to facilitate access by persons with disabilities to purchase mobility, vision, hearing and communication devices and assistive technologies
4	Legal, regulatory and policy measures to facilitate access by persons with disabilities to purchase adapted vehicles and adaptive equipment
5	Legal, regulatory and policy measures regarding obtaining a driving permit which are inclusive of persons with disabilities and provide the possibility of adaptations of vehicles
6	Regulatory and policy measures to facilitate mobility of persons with disabilities who use vehicles
7	Legislation on construction and planning, including requirements to grant authorization, incorporates mandatory accessibility standards on physical environment and services open to the public
8	Enacted legislation to ensure rights to persons with disabilities as passengers, including those utilizing mobility aids, devices, assistive technologies and live assistance, on equal basis with others

- 9 No provision in legislation or regulations on transportation services that discriminate on the basis of disability
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Conclusions and recommendations

188. Assistive Technology (AT) for people with disabilities is a cross-cutting mediator of human rights. AT is crucial to an inclusive environment because it enables full participation for persons with disabilities. Advocating and mainstreaming the use of Universal Design in all stages of ICT design will further support the inclusion of persons with disabilities.
189. There is no national strategy or policy on AT that will address the mobility needs of persons with disabilities in Ireland. The Committee continue to recommend DCEDIY develop an integrated policy on AT, with an associated budget along with new legislation which recognises AT and Augmentative and Alternative Communication (AAC).
190. At the public meeting, 4 October 2023, the Committee heard from the Minister for State with responsibility for Disability regarding the efforts to introduce a personal transport scheme that sufficiently meets the needs of people with disabilities in Ireland. The Committee heard that progress would ultimately be enabled through the introduction of a mechanism that could coordinate action across all the relevant Departments and stakeholders. An implementation plan, both integrated and accountable, must be embedded in the successor to the NDIS. The Minister highlighted how there is also a need to broaden and standardise the range of community-based alternative transport options for people with disabilities who require more targeted supports especially for young people on the School Leavers Programme to support their access to day services.
191. A working group was convened in 2020 to review several key mobility and transport schemes including the Disabled Drivers and Disabled Passengers Scheme and reported on their work detailing key recommendations for changes to the current provision and governance of transport and mobility schemes. A key recommendation in the report emphasises the need for a comprehensive and coordinated cross-

Government and mainstream process which ensures that the focus of policy, planning and transport provision is on the customer's end to end journey and advances a joined up and door-to-door approach to transport and mobility supports for people with disabilities. This will likely involve the convening of a new working group.¹²⁷

The Committee recommends

Number	Recommendation
56	DCEDIY must introduce new legislation which recognises AT and AAC as cross-cutting mediators of human rights.
57	DCEDIY must develop a national strategy or policy to address the mobility needs of persons with disabilities, including developing and promoting research and development into free and low-cost mobility, vision, hearing and communication devices and assistive technologies, and eliminating waiting lists.

¹²⁷ Department of Children, Equality, Disability, Integration and Youth (2023) [National Disability Inclusion Strategy Action 104 Transport Working Group Final Report](#).

Article 21 Freedom of expression and opinion, and access to information

Indication of overall progress

No Progress

Number	Indicators
1	Legislation enacted guaranteeing the right of persons with disabilities to freedom of expression and opinion, including the freedom to seek, receive and impart information, with the definition of communication of Article 2 of the CRPD, developed in close consultation with representative organizations of persons with disabilities
2	Legal framework providing for access to information intended for the general public in accessible formats and technologies in a timely manner for all persons with disabilities and without additional cost
3	Legal framework establishing mandatory standards on accessibility of information and communication for both public and private actors that provide information and services to the general public, including through mass media, encompassing digital and social media
4	National strategy and/or plan to enhance the exercise of persons with disabilities of the right to freedom of expression and opinion, and access to information, including benchmarks, timeframes and measurable goals
5	Legislation enacted recognizing sign language as an official language, and ensuring its use in official interaction(s), as chosen/requested by persons with disabilities
6	Legislation enacted recognizing Braille, Easy to Read Format, captioning, tactile communication, support person for communication, and any other accessible means, modes and formats of communication used by persons with disabilities, and ensuring their use in official interaction(s), as chosen/requested by persons with disabilities
7	National strategy and/or plan to raise awareness about sign language as an official language, Braille, Easy to Read, and other means, modes and formats of

communication used by persons with disabilities, and to support both their development and the development of related professionals (e.g. sign language interpreters, translators, human assistance), including benchmarks, timeframes and measurable goals, developed with the active involvement of representative organizations of persons with disabilities

8	Legal requirement to establish a marker on all public spending to ensure freedom of expression and access to information of persons with disabilities
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9	Legal requirement for data collection on measures to ensure freedom of expression and access to information and communication, including for official interactions
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Conclusions and recommendations

192. Article 21 of the Convention requires State Parties to take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through forms of communication of their choice. The Disability Act 2005 requires public bodies to make their buildings and services accessible, however there is a need to expand the provision of accessibility under the Act in line with Universal Design and ensure effective monitoring and enforcement as highlighted under Article 9.

193. The ISL Act 2017 was commenced in December 2020 and recognises ISL as an official language of Ireland and sets out requirements and obligations on public bodies for the provision of ISL services.

194. As highlighted previously, the NDA reported on implementation of the ISL Act in January 2023. The report highlights a lack of awareness among public bodies of the ISL Act and their responsibilities to provide ISL interpretation under the Act. An inadequate supply of accredited ISL interpreters is a barrier to public bodies fulfilling the obligations of the Act.¹²⁸

¹²⁸ NDA (2021) [Report on the operation of the Irish Sign Language Act 2017](#).

195. An Accessibility Act as proposed under Article 9 should ensure appropriate enforcement mechanisms and targets to enable Ireland to become fully accessible to people with disabilities, across all groups.

The Committee recommends

Number	Recommendation
58	DCEDIY ensures immediate action by the public sector on NDA accessibility reviews to improve accessibility and take measures to promote accessibility of websites and mobile applications in the private sector.
59	Strengthen measures, including through grants and other incentives, to increase the official training of sign language interpreters, including at the university level, and adopt measures to raise awareness about Deaf culture and the Irish sign language.

Article 22 Respect for privacy

Indication of overall progress

No Progress

Number	Indicators
1	Legislation recognizing and regulating the right to privacy, which is inclusive of persons with disabilities
2	Legislation ensuring access to personal information, which is inclusive of persons with disabilities, on an equal basis with others
3	No provisions in legislation or regulations that restrict protection of privacy and/or access to personal information, on the basis of disability
4	Legislation regulating the confidentiality of disability-related and health-related personal information and data which protect against: <ul style="list-style-type: none">unjustified disclosure by persons with disabilities of disability- and/or health-related personal information; andthe transfer and use of disability-related and health-related personal information and data among third parties without the free and informed consent of the person concerned

Conclusions and recommendations

196. The Initial Report of Ireland under the Convention on the Rights of Persons with Disabilities highlights that the Irish Constitution does not specifically state a right to privacy, however, the Irish courts have held that the right to privacy is one of several unenumerated rights that flows from the Constitution, which guarantees that the State will defend and vindicate the personal rights of the citizen.¹²⁹

¹²⁹ Department of Children, Equality, Disability, Integration and Youth (2021). 'Initial Report of Ireland under the Convention on the Rights of Persons with Disabilities'. [gov.ie - Ireland's first report to the United Nations Committee on the Rights of Persons with Disabilities \(www.gov.ie\)](https://www.gov.ie/en/publications-and-resources/publication/initial-report-of-ireland-under-the-convention-on-the-rights-of-persons-with-disabilities/)

197. HIQA regularly reports that the rights, privacy, and dignity of people with disabilities residing in congregated or community settings may not be respected.
198. There is significant under reporting with regard disability. However, people with disabilities are required to provide a large amount of personal data on a regular basis to access State supports across many different sectors. Disabled people must be able to maintain agency (control) over their personal data and be supported in accessing, securely sharing, understanding the use of, and deleting their data. The Committee previously recommended a holistic approach to the right to privacy across all articles of the UNCRPD to ensure the protection of and privacy of personal, health and rehabilitation information of people with disabilities and across any new data collection processes or processing.
199. The Committee also recommended that a review of information held on people with disabilities be undertaken by all Government Departments and bodies which hold such information, to ensure that all data collection, storage and sharing practices demonstrate transparency of processes and comply with best practice under the EU General Data Protection Regulation (GDPR).
200. As previously highlighted by the Committee in the report on ‘Aligning Disability Services with the UNCRPD’ the burden is on people with disabilities and their families to share their private lives to bring about awareness and action with regard rights. The Committee heard from Catherine Gallagher, at the public meeting, 29 September 2022, that a trajectory had begun with the Covid-19 Response where people with disabilities felt they needed to share their private lives to bring about awareness and action. Ms. Gallagher highlighted that this is not a sustainable model of advocacy. Private lives are further impacted where individuals and parents depend on social media for information and services. The Committee believe that radical and systematic action is needed from the Government so that individuals, parents, and families do not have to fulfil the role of raising awareness and impact their dignity by sharing personal stories of a service that does not support their rights.

The Committee recommends

Number	Recommendation
60	The Department of Justice must consider introducing legislation recognising and regulating the right to privacy, which is inclusive of persons with disabilities.
61	DCEDIY and the Department of Health must ensure the privacy of persons with intellectual or psychosocial disabilities in institutions and mental health systems and services including the confidentiality of information and of their personal medical records.

Article 23 Respect for home and the family

Indication of overall progress

No Progress

Number	Indicators
1	Legislation enacted on family life which is inclusive of persons with disabilities, and which provides for the right to support or assistance for persons with disabilities and their families
2	No provision in the law relating to family life which restricts directly or indirectly on the basis of disability, the right to marry on the basis of free and full consent, to found a family, to decide on the number and spacing of children (including equal access to sexual and reproductive health-care services) and the right to adopt and to be adopted
3	Legislation enacted which explicitly prohibits the separation of children from their parents on the basis of the disability of the child
4	Legislation enacted which ensures the right of children with disabilities without parental care to alternative care in a family setting within the community
5	Adoption of regulations and policies to ensure equal access to sexual and reproductive health-care services and family planning services for persons with disabilities
6	Legislation enacted which prohibits the separation of children from their parents on the basis of the disability of one or both of the parents
7	Adoption of policies to ensure the provision of support to parents with disabilities who request it to carry out their child-rearing responsibilities, including financial support, counselling, community based and personal assistance services
8	Adoption of a moratorium on new admissions to institutions of children with disabilities
9	Adoption of a national policy for the deinstitutionalisation of children with disabilities, including timeframes and measurable goals

- 10 Adoption of a national policy to ensure support to families of children with disabilities to prevent family separation, including the provision of appropriate and adequate social services for quality family-based alternative care options, to ensure the right of children with disabilities to a family life and inclusion in the community
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Conclusions and recommendations

201. The UNCRPD is the first international treaty in which persons with disabilities are specifically recognised as having the right to the highest attainable standard of health care, including sexual and reproductive health. Similarly, the 2030 Agenda for Sustainable Development calls for access to sexual and reproductive health care services, information, and education for all people, including persons with disabilities.
202. The Conference of State Parties to the Convention on the Rights of Persons with Disabilities (COSP) 16 highlighted the growing body of data which confirms that persons with disabilities are as sexually active as their peers without disabilities¹³⁰ and have the same needs for, and right to have access to sexual and reproductive health care and services on an equal basis with others.
203. A range of barriers are faced by persons with disabilities accessing and using sexual and reproductive health services. Barriers include physical access to the health facilities, location of the nearest health facility and access to public transport which may be limited, unreliable and often inaccessible. Personal transport may also be limited or unaffordable. Information and communication can also create a barrier, for example, sign language services are most often not available for Deaf clients.
204. Economic accessibility or affordability is an important factor as many persons with disabilities are disproportionately represented in the population in poverty. Stigma, discrimination, and negative attitudes still exist in the community as well as in the health care sector which can contribute significantly to the exclusion of persons with disabilities accessing sexual and reproductive health services.

¹³⁰ World Health Organization (WHO) and World Bank, (2011). [‘World Report on Disability’](#).

205. The Committee heard at the public meeting, 9 March 2023, about the importance of equal access to parenting for disabled people and that people with disabilities are equally able to provide for their families and support their children when they are born, as non-disabled parents, when they have the right supports.
206. The Convention supports children and individuals living at home with their family, or in a family setting, with the right supports, and access to the community. In Ireland there is an absence of community services and supports, as well as mental health supports for children and adults with disabilities to live with their families. There is also a need to develop alternative care in a family setting within the community for children with disabilities without parental care.
207. A national plan for the realisation of the right to independent living including support for agencies to reconfigure their services to support this, as highlighted under Article 19 must include the deinstitutionalisation of children with disabilities, including timeframes and measurable goals.
208. The Committee also heard at the public meeting, 9 March 2023, that because of the prevalence of ableism in the system, disabled women who have left an abuser have immediately had their children taken away from them due to a diagnosis. A study in Australia was also referenced that found that more than half of disabled women who reported gender-based violence had their children removed from their custody temporarily or permanently.
209. Concerns with regard assisted human reproduction and the impact on people with disabilities access to reproductive justice and human rights have been highlighted previously to the Committee.
210. Reproductive justice is the ability to make decisions and have choices respected around becoming a parent or not. This includes fertility, contraception, including assisted human reproduction, abortion, pregnancy, birth, and parenting, fostering and adoption.
211. Discrimination with regard this choice for disabled people includes physical infrastructure where reproductive health and parenting services are inaccessible, historic and contemporary use of long-term contraceptives without informed

consent, ableist attitudes across assisted human reproduction, maternity and parenting service staff, a lack of accessible information across all stages of reproductive decision making, a gap in knowledge among health professionals about the support needs of disabled people accessing reproductive services, increased interventions and monitoring of disabled parents that is disproportionate to non-disabled parents, and a lack of uniformity about the use and quality of parental capacity assessments. There is also a gap in data about the provision of reproductive services to disabled people, particularly with the new framework for abortion services.¹³¹

212. The Committee heard that there was an absence of the voices and experiences of people identifying as disabled participating in the pre-legislative scrutiny General Scheme of the Assisted Human Reproduction Bill 2017. A revised version of this Bill was published by the Irish Government, 10 March 2022 and is currently before Dáil Eireann, (Third Stage).¹³² The Committee recommend that the Joint Committee on Health ensure people with disabilities and DPOs are included in the consultation.

213. The Committee are aware that there is a need to separate the income of persons with disabilities from that of their spouses to support financial independence of women with disabilities and not sustain individuals being locked in abusive relationships, as well as strengthening measures to support couples composed by persons with disabilities and parents of children with disabilities. Please see Article 28 for further discussion.

¹³¹ [Joint Committee on Disability Matters debate - Tuesday, 9 Mar 2021 \(oireachtas.ie\)](#)

¹³² [Health \(Assisted Human Reproduction\) Bill 2022 – No. 29 of 2022 – Houses of the Oireachtas](#)

The Committee recommends

Number	Recommendation
62	The Department of Children, Equality, Disability, Integration and Youth develop a national policy for the deinstitutionalisation of children with disabilities, including timeframes and measurable goals.
63	The State must ensure appropriate support for parents with disabilities to effectively fulfil their role as parents and ensure that disability is not used as a reason to place their children in care or remove them from the family home.
64	The Department of Children, Equality, Disability, Integration and Youth and the HSE must ensure the accessibility and availability of in-home and community-based services for children with disabilities, their parents and families as well as for parents with disabilities, to guarantee their enjoyment on an equal basis with others of their rights with respect to family life.
65	The State must adopt measures to encourage foster families and to provide financial support to low-income families with children with disabilities to enable the children to live with their families and be active members of the community.
66	The Department of Children, Equality, Disability, Integration and Youth, in consultation with persons with disabilities, must raise awareness about the equality of persons with disabilities concerning marriage and family matters, identify actual barriers to exercise parental rights and adopt measures to prevent opposition to marriages of persons with disabilities by third parties.

Article 24 Education

Indication of overall progress

Limited Progress

Number	Indicators
1	Legislation enacted that ensures inclusive education for all students, including students with disabilities in public and private settings across all levels of education
2	No provision in legislation excludes any person on the basis of disability from any form or level of education, field of study, or from obtaining certification on an equal basis with others
3	National strategy/plan led by the Ministry of Education to transition to an inclusive education system
4	Programmes established for the early identification of children with disabilities and their support needs for their effective participation in mainstream schools
5	National strategy/plan on vocational and technical education and lifelong learning, involving both informal and non-formal learning, which explicitly refers to and is inclusive of persons with disabilities
6	Mandatory pre- and in- service training for inclusive education for all teachers and personnel at all levels of education
7	National curriculum incorporates inclusive education standards that reflect the diversity of learning needs of all learners and allows for modifications and adaptations to curricula tailored to each learner
8	National accessibility standards established and applied to all educational environments and materials, including for extra-curricular activities
9	Legislation enacted that prohibits violence, corporal punishment, bullying and harassment in educational environments including on the basis of disability

Conclusions and recommendations

214. Article 24 requires State Parties to introduce a Universal Design approach across institutions and programmes to realise inclusive education while providing individual supports or reasonable accommodation to students where required. The Committee are aware that the current system supports children with special educational needs to the greatest degree possible in mainstream settings with additional teaching and care supports to allow them to achieve their potential. In circumstances where children with special educational needs require more specialised interventions, they can access special school or special class places.
215. However, the NDA note that in recent years there has been a very steep rise in the number of special classes. The NDA further note that despite the rapid increase in the number of special classes being opened, and improvements in the Department of Education and the National Council for Special Education (NCSE) process to estimate and plan for new special classes, meeting demand has proved to be challenging.¹³³ The lack of a national plan for inclusive education as well as comprehensive provision legislating for practical measures to deliver inclusive education, and increased financial and supports for schools and subsequent coordination of relevant departments and resources is sustaining this increase.
216. At the public meeting, 18 October 2023, the Department of Education highlighted that 97% of all children are educated in mainstream settings with teachers and Special Needs Assistants (SNAs) and that the Departments definition of success is for the children to spend the maximum amount of time possible within the mainstream setting, acknowledging that they should avail of the support of the special class as they need it.
217. The Committee welcomed hearing from the Department of Education that they now have a very robust forward planning process for special school and class places. In earlier years there would have been larger numbers of children who did not have a school place because the Departments forward planning processes had not identified enough special schools and classes and more children may not have had a

¹³³ NDA Independent Assessment of Implementation of the NDIS, pp. 26

school placement to meet their needs. Subsequently, these children would have had to avail of home tuition.

218. The Department of Education also highlighted that in their forward planning a campus solution is included where special and mainstream schools are collocated, so over time individuals come in the same gate and then go to the setting that most meets their needs. The Committee believe that inclusion should be more than individuals coming in the same gate together, to then be segregated based on their needs. A whole school approach to inclusive education enables children going out the same gate together and having equal opportunities in their lives after school. Access must be increased to mainstream provision to the greatest degree possible and mainstream schools must be supported to build expertise and capacity to support children with special educational needs. Mainstream schools that are leading in this regard must be celebrated so that others can learn from them.
219. The Department of Education also highlighted that they are aware that as the Department centralise their forward planning for delivering special classes and schools, there was a reduction in the Special Educational Needs Organisers (SENOs) involvement in local decision making. There is a significant recruitment campaign ongoing for additional SENOs across the NCSE to support the growth of special education and directly support parents. Considering how crucial the SENO role is in empowering parents and coordinating the delivery of services between the health sector and schools, the Department needs to increase their consultation and involvement in decision making.
220. The Committee are aware of the potential of the Social Inclusion Model (SIM) which is currently at pilot stage in driving inclusion in schools as per Article 24 of the UNCRPD. SIM is based on the principle of providing the right support at the right time delivered by a range of personnel with relevant qualifications and skill sets and building the capacity of participating schools so they can support the inclusion of all children particularly those with special educational needs (SEN). At the public meeting, 18 October 2023, the Department highlighted that they were engaging with the Department of Public Expenditure, NDP Delivery and Reform to progress the model and embed therapists across NCSE staff.

221. Further, there are over 30,000 children who are gifted or exceptionally able in Ireland and there is no additional provision for them unless they have a learning difficulty. There is a need to update the Exceptionally Able Students Draft Guidelines for Teachers and provide additional provision to support the children's development.
222. The Committee are aware there is need to roll out disability awareness training for all staff and pupils.
223. A requirement also remains to develop a consistent process for school placements, so parents do not have to pay to have their children privately assessed to secure placement in an autism class or a special school. The Committee are concerned that this is putting parents who cannot afford private assessments at a disadvantage, as well as the impact on the children. The Department of Education noted that these assessments from the HSE were important to ensure that the children who access those classes are the children with the most complex need but that they are looking internally at what can be done to move away from the assessment.
224. In 2020 the Teaching Council developed a new set of standards for initial teacher education which include inclusive education. The Teaching Council will report to the Department and the Minister of Education in the first half of 2024, after all the programmes have been through their accreditation cycle, on how that element of inclusive education is being embodied in those programmes. It is important that a standard is developed across all higher education institutions in line with the UNCRPD as well as developing a standard under Oide, the single entity responsible for providing ongoing continuing professional development, CPD, for teachers.
225. The Committee published a contribution to the review of the Education of Persons with Special Educational Needs (EPSEN) Act 2004 currently being undertaken by the Department of Education, outlining areas to support aligning with Article 24 of the UNCRPD.¹³⁴

¹³⁴ Joint Committee on Disability Matters (2023) [2023-03-06 contribution-to-the-public-consultation-on-the-review-of-the-education-for-persons-with-special-educational-needs-epsen-act-2004_en.pdf](https://www.oireachtas.ie/publications/2023-03-06-contribution-to-the-public-consultation-on-the-review-of-the-education-for-persons-with-special-educational-needs-epsen-act-2004-en.pdf) (oireachtas.ie)

226. The NDA advises that the outcome of the EPSEN review may also have implications for the operation of Part 2 of the Disability Act and have suggested a review of same would be timely.¹³⁵
227. At the public meetings, 14 July 2022, 20 September 2022, and 18 October 2023, the Committee heard how important it is to support students with SEN as they transition from one stage to the next stage in their educational journey. There is a particular need to support the transition of children with SEN after they finish school and to provide access to guidance counselling provision to students in special schools. In some instances, this transition may be to adult disability services but in others, it could be to further education, to an apprenticeship, or work, with the right supports and early intervention. The Committee welcomed hearing that a pilot project is underway by the Department of Education to support school leavers with disabilities in their transition from education¹³⁶ and that the Department is collaborating with DCEDIY on their development of a policy on transition.
228. The Committee note the positive benefits for children participating in the Summer Programme and welcome that the new Special School Programme in 2023 was piloted to support more access for children in special schools to a school-based programme. The Committee agree with the NDA that the intended outcomes of the review of the Summer Programme would provide useful information in the context of the work underway to review the EPSEN Act and the need to define a vision for inclusive education in line with the UNCRPD.¹³⁷
229. A new scheme for the provision of ISL in-school support for students who are Deaf and whose primary means of communication is ISL was announced by the Department of Education.¹³⁸ The Irish Deaf Society (IDS) and NDA highlight that the eligibility requirements for accessing this scheme rely on a medical model definition of deafness which does not meet the requirements of the ISL Act. The ISL Act is clear that such a scheme should be provided for those whose primary language is ISL. Not all children whose primary language is ISL would meet the requirements of the Department's scheme. The Committee are concerned that consultation with

¹³⁵ NDA Independent Assessment of Implementation of the NDIS, pp. 26

¹³⁶ [gov.ie - Ministers Foley and Madigan announce pilot project to support young school leavers with disabilities \(www.gov.ie\)](https://www.gov.ie/en/ministers-foley-and-madigan-announce-pilot-project-to-support-young-school-leavers-with-disabilities/)

¹³⁷ NDA Independent Assessment of Implementation of the NDIS, pp. 32

¹³⁸ [gov.ie - Irish Sign Language \(ISL\) Scheme \(www.gov.ie\)](https://www.gov.ie/en/irish-sign-language-isl-scheme/)

stakeholders across the Deaf community, including the DPO's did not take place during the design of this scheme.

230. With regard mental health services in schools, the Committee welcomed hearing from the Department of Education about two pilots under the National Educational Psychological Service (NEPS) that will be continued to be funded for 2024. A one-to-one counselling in seven counties and a pilot to recruit mental health practitioners to join as part of the student support teams in schools is ongoing.
231. The Committee are aware that expulsions, suspensions, the use of reduced timetables and restraint and seclusion practices can be inappropriately used to manage behavioural problems in schools. Children from the Traveller community are impacted more significantly considering 24% of children from the Traveller community were put on reduced timetables in special schools. This is a result of inappropriate placements, the lack of access to adequate services and supports, including the lack of guidance, training and in reach services in respect of managing behaviours of concern, and the lack of educational psychologists especially in special schools, to appropriately manage behavioural problems.
232. The Committee welcomed hearing that the Guidelines for the use of Reduced School Days in Schools came into effect in January 2022 and that the monitoring mechanism is helping ensure that reduced school days are driven by consent and a student support plan is in place as well as relevant support, advice and assistance services are consulted before it can be considered. The Department of Education must ensure that the consent of the parent or the guardian is provided in all applications for reduced school days. The Department must also ensure that teachers using reduced school days can access relevant supports and training to support reduced school days being used appropriately as short-term interventions which support the child in a positive manner.
233. At the public meeting, 18 October 2023, the Committee heard that the largest cohort of children who access home tuition are children with an autism diagnosis who do not have an early intervention class place.

234. The Committee continue to call for the elimination of all methods of restraint against children for disciplinary purposes in all institutional settings, both residential and non-residential, and including schools.

The Committee recommends

Number	Recommendation
67	<p>The Committee continue to recommend that the Department of Education develop a national strategy/plan to transition to inclusive education and;</p> <ul style="list-style-type: none">a) ensure adequate evaluation and progress of SIMb) ensure consultation with parent's representative groups and SENOs in decision making as well as increasing consultation with stakeholders in the Deaf community and DPOs on all schemesc) ensure provision that special schools must be co-located on mainstream campuses to increase access to mainstream provision and to allow mainstream schools to build up expertise and capacityd) develop a framework recognising the right to seek individualised supports through the provision of reasonable accommodation for children with disabilitiese) develop indicators on inclusion in schools and provide sufficient, relevant data on the number of students both in inclusive and segregated education, disaggregated by impairment, age, sex and ethnic background, and on the outcome of the education, reflecting the capabilities of the studentsf) ensure mandatory pre- and in- service training for inclusive education for all teachers and personnel at all levels of education
68	<p>The Department of Education must strengthen measures to monitor school practices concerning enrolment of children with disabilities and offer appropriate remedies in cases of disability-related discrimination.</p>
69	<p>The Department of Education must ensure that the revised EPSEN Act include a clear definition of inclusive education consistent with the UNCRPD, along with provision for a whole systems approach and resourcing inclusive education and embedding the necessary changes in institutional culture, policies, and practices.</p>
70	<p>The Department of Education must ensure that the consent of the parent or the guardian is provided in all applications for reduced school days.</p>

Article 25 Health

Indication of overall progress

Regressive

Number	Indicators
1	<p>Legislation relating to health which explicitly recognises:</p> <ul style="list-style-type: none"> • equal access by persons with disabilities to affordable, accessible, quality and culturally sensitive health services, in private and public settings; • the denial of reasonable accommodation constitutes disability-based discrimination; • respect for confidentiality of persons with disabilities, including women, children and older persons
2	<p>Laws and regulations that guarantee women and girls access to sexual and reproductive health care, information and education (based on SDG indicator 5.6.2), including women and girls with disabilities</p>
3	<p>Existence of a national policy/plan to ensure that persons with disabilities, particularly women, children and older persons, have access to quality and affordable health services, including access to universal health coverage and access to emergency care on an equal basis with others</p>
4	<p>National accessibility standards adopted and applied to public and private health facilities</p>
5	<p>Legislation prohibits health insurers from discriminating against persons with disabilities on the basis of pre-existing impairments/health conditions</p>
6	<p>Legislation which:</p> <ul style="list-style-type: none"> • Recognizes the right to free and informed consent to medical treatment, and the right to refuse treatment, of every individual at all times, regardless of their legal capacity status, condition of liberty, including in situations of mental distress; • Prohibits discrimination in the exercise of free and informed consent, including the denial of reasonable accommodation;

- Ensures that all health information and consent forms are fully accessible and culturally appropriate;
- Requires health care providers to act in accordance with advance directives, powers of attorney and other forms of supported decision-making for health care decisions

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- 7 No provisions in legislation or regulations which permit:
- Consent to be provided or substituted by a third party;
 - Any type of involuntary treatment including through any form of surgery, administration of any type medication therapy (e.g., ECT), mechanical devices, belts or restraints
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Conclusions and recommendations

235. Most people with disabilities in Ireland access services and supports through mainstream services. Sláintecare proposes a focus on delivery of healthcare in the community, as close to the source of demand as possible and a Social Care Strategy will address the challenges involved in supporting a growing population of people with disabilities to live with independence and dignity.
236. As recommended by IHREC, the Disability Act 2005 must be reformed in line with the human rights model of disability and ensure harmonisation with the UNCRPD. It is important that the DCDEIY undertake a review of the Disability Act 2005 and consider including a legal entitlement to intervention and provision of services across the lifecycle of individuals with disabilities based on need.
237. In June 2023, the Department of Health stated to the Joint Committee on Health that the national medical card unit has well-developed processes for looking at hardship, and this is often called a discretionary card. If an individual does not qualify for a medical card based on means, the national medical card unit can consider whether the cost of meeting his or her, or his or her family's medical and other health needs is fair and reasonable, despite the person's income. At the end of April 2023, there were 183,354 medical cards and 39,324 GP visit cards in existence which had been awarded solely on a discretionary basis.¹³⁹

¹³⁹ [Joint Committee on Health debate - Wednesday, 14 Jun 2023 \(oireachtas.ie\)](#)

238. The delivery of a range of specialist community-based disability services for the approximately 74,000 children and adults who need more specialised services¹⁴⁰ is undergoing improvements and increases in service capacity in the areas of day-care, respite, multi-disciplinary, residential, and personal assistant services.
239. At the public meeting, 13 July 2023, the Committee heard about the need to ensure that DPO's and disability service providers are also moving to a holistic view of what a person wants to be or what they want to grow up to be, with outcomes in line with the social and human rights model of disability. Disability service providers must support children and individuals with disabilities into employment, including self-employment, and continuing education. Regulatory standards need to support these outcomes, as well as adequate planning and funding for service providers.
240. The aim of the HSE National Service Plan 2023 is focused on continued progress with the implementation of the fundamental service delivery reforms set out within Sláintecare, implementation of the Regional Health Areas (RHAs) and building further on hospital and community services capacity and improving access to services.¹⁴¹ However, the NDA highlight significant issues around the timely delivery of multi-disciplinary disability services for both children and adults.
241. The Committee welcome the move to the rights-based approach through child and person-centred planning in disability services and mental health centres. The year on year increases in HIQAs reported compliance of services with the regulation relating to personal plans to 2021 and the MHCs reported compliance on individual care planning 2016 to 2021, is positive. However, HIQA notes that there is still work to be done to ensure that all services provided to residents are person-centred and able to effectively meet their assessed social care and support needs on a continual basis. The MHC still consider levels of compliance of regulations under 70% as low and highlighted lack of compliance related to care planning as an area of concern in their 2021 annual report.¹⁴²

¹⁴⁰ [Disability services – HRB reports latest figures on current use and future demand](#)

¹⁴¹ HSE (2023) 'National Service Plan 2023.' Available at: [national-service-plan-2023.pdf \(hse.ie\)](#). (Accessed 10 January 2024)

¹⁴² NDA, Final Review of Progress on Indicators of the National Disability Inclusion Strategy June 2023, pp. 84

242. The Committee believe that person centred planning is vital to support people with disabilities to live independently and live a life of their choosing. Person centred planning must be developed as a standard and in line with the Assisted Decision Making (Capacity) (Amendment) Act 2022 so that people with disabilities and mental health issues rights are supported and they have choice about the life they want to live.
243. The National Policy on Access to Services for Children and Young People with Disability and Developmental Delay aims to ensure that children are directed to the appropriate service based on the complexity of their presenting need. This may include Primary Care for non-complex issues, Childrens Disability Network Teams (CDNT's) for more complex issues and CAMHS for other presenting issues. Considering that for a subset of children all three services may need to work in partnership, measures need to be strengthened under this policy to ensure better coordination and monitoring between areas to achieve best outcomes for the child.
244. The Committee note that the Roadmap for Service Improvement: Disability Services for Children and Young People 2023 - 2026 which is a targeted Service Improvement Programme to achieve a quality, accessible, equitable and timely service for all children with complex needs because of a disability, was published, 24 October 2023.¹⁴³ However, a lack of engagement with professional bodies, frontline staff, FÓRSA or service users and their families has been reported.¹⁴⁴
245. The Action Plan for Disability Services 2024 – 2026 was published in December 2023.¹⁴⁵ The media reports highlight that this plan is the Government's response to years of underfunding of the disability sector, yet it was reported that there was a lack of commitment to the allocation of sufficient levels of funding to ensure delivery in line with the UNCRPD.¹⁴⁶
246. The Committee has consulted with people with disabilities on their lived experience of disability services and made several recommendations under their report

¹⁴³ HSE (2023) 'Roadmap for Service Improvement 2023 – 2026 Disability Services for Children and Young People.' Available at: <https://www.hse.ie/eng/services/publications/disability/roadmap-for-service-improvement-2023-2026.pdf>. (Accessed 10 January 2024).

¹⁴⁴ [News | Lack Of Consultation On New Plans For Childrens Disabilities Services Criticised 1 | The Irish Society of Chartered Physiotherapists \(iscp.ie\)](#)

¹⁴⁵ Department of Children, Equality, Disability, Integration and Youth (2023). [Action Plan for Disability Services 2024-2026](#)

¹⁴⁶ [Disability services' action plan under threat in Budget funding row | Independent.ie](#)

‘Aligning Disability Services with the UNCRPD’. The Committee found that overall, even though the different elements of service provision have been moving to centralised and rights-based service delivery for children and adults with disabilities, disability services are still largely in crisis and impacting human rights. A lack of political will, leadership, and coordination, in tandem with inefficient organisational structure, cultures of mistrust, financing issues, and significant recruitment and retention issues are repressing meaningful reform. This has led to a narrowing in operations to emergency provision, inability to move from medicalisation and dependence on pharmacological restraint, expanding waiting lists, lack of coordination across primary, disability and mental health areas with impact on the most complex cases. In addition, some individuals are having to depend on litigation to secure their rights and access services.

247. Responsibility for disability services transferred to DCEDIY from the Department of Health leading to delays with reform as another layer of accountability was introduced.

The Committee recommends

Number	Recommendation
71	DCDEIY must undertake a review of the Disability Act 2005 and consider including a legal entitlement to intervention and provision of services across the lifecycle of individuals with disabilities based on need.
72	The State must commit to sufficiently funding the Disability Action Plan to deliver rights-based care and services for people with disabilities.
73	Ensure that Sláintecare and the National Access Policy and the Social Care Strategy are aligned to enable access for people with disabilities to high-quality, gender-sensitive and affordable health-care services at all levels of care without discrimination, as well as ensuring the implementation of accessibility standards and the provision of reasonable accommodation by public and private health providers.
74	Effectively monitor the implementation of the provision of health services by health service providers to persons with disabilities on an equal basis with others.

- 75 Ensure that any medical treatment is provided with the free and informed consent of the person concerned prior to any medical treatment.
- 76 In close consultation with people with disabilities and DPOs of persons with psychosocial disabilities, develop non-coercive, community-based mental health support, in all Community Health Organisations that is based on the principles of the Convention.
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Article 26 Habilitation and rehabilitation

Indication of overall progress

Limited Progress

Number	Indicators
1	<p>Legislation enacted on access to habilitation and rehabilitation services to all persons with disabilities, in line with the human rights-based approach to disability, that:</p> <ul style="list-style-type: none">• Prohibits discrimination against persons with disabilities on the basis of disability, including the denial of reasonable accommodation, or on any other grounds, including nationality and migrant status.• Upholds explicitly the right to give and refuse free and informed consent, protecting persons with disabilities from imposed or conditional habilitation and rehabilitation services
2	<p>Adoption of a national strategy/plan to organize, strengthen and extend comprehensive, cross-sectoral, accessible, and affordable habilitation and rehabilitation services, including peer support</p>
3	<p>Appointment of independent authorities to conduct regular monitoring and inspections of all public and private facilities and programmes designed to deliver habilitation and rehabilitation services for children and adults with disabilities, with the competence to initiate legal proceedings for the enforcement of related legislation, including preventing and combating violence</p>
4	<p>Adoption of a national strategy, policy, or law to promote the availability, knowledge and use of assistive devices and technologies designed for persons with disabilities, as they relate to habilitation and rehabilitation, including through the use of public procurement</p>
5	<p>Legal and regulatory provisions to facilitate access by persons with disabilities to affordable and quality assistive devices and technologies designed for persons with disabilities, as they relate to habilitation and rehabilitation</p>

Conclusions and recommendations

248. As highlighted earlier, under Article 19 of the Convention, the model of long-term health care and disability service provision in Ireland can sustain the institutionalism of people with disabilities, and the ageing population is adding considerable pressure on these systems, in terms of both accessibility and sustainability.
249. Approximately 70% of people with disabilities acquire their disability in later life and receive appropriate care in the hospital. However, lack of discharge plans, insufficient provision of community-based social services and supports often means people with disabilities are dependent on institutional care.
250. The Global Report on Assistive Technology by the World Health Organisation reports that over 2.5 billion people worldwide need one or more assistive products, such as wheelchairs, hearing aids, or apps that support communication and cognition. However, nearly one billion people are denied access. The Committee made recommendations to advance provision of AT in Ireland under the report 'Aligning Disability Services with the UNCRPD' including introducing new legislation which recognises AT and AAC as cross-cutting mediators of human rights, as highlighted previously.
251. With regard AT products, access can be narrowed to those legally recognised as having a disability which defeats the principal of Universal Design, particularly affected are people with psychological disabilities. Reform of the Disability Act 2005 must include appropriate assessment and access for AT and ongoing maintenance based on need and not diagnoses.
252. The Committee highlighted the impact of the lack of implementation of the National Strategy and Policy for Neuro Rehabilitation Services launched in 2011 on people with disabilities and made recommendations in the report 'Aligning Disability Services with the UNCRPD'.
253. The Committee believe that the lack of rehabilitation in communities is sustaining people with neurologically conditions, who may be under 65, being placed inappropriately in nursing homes. The HSE must ensure that all the neurorehabilitation teams are established to ensure equity in service provision across the country and ensuring access to rehabilitation as a human right.

254. The MHC has highlighted the ‘total absence’ of community mental health supports across the State and continued lack of development of mental health rehabilitation services in Ireland.¹⁴⁷ Currently, the MHC regulates in-patient mental health services in approved centres with no regulation of community mental health services, including CAHMS.
255. The National Strategy and Policy for the Provision of Neuro-Rehabilitation Services in Ireland states that the neuro-rehabilitation services have been underdeveloped and where they exist, have been developed in an ad hoc manner, primarily by the voluntary sector. Where services have been developed by the statutory health system, the focus of provision has been on medical rehabilitation, which, while most important, is not comprehensive.¹⁴⁸
256. Since 2019, HIQA has undertaken a Rehabilitation and Community Inpatient Healthcare Services Monitoring Programme. The purpose of the inspection programme is to monitor compliance against relevant standards and promote quality improvement in service provision in rehabilitation and community inpatient healthcare services.
257. In 2020 HIQA became responsible for monitoring 31 rehabilitation and community inpatient services, an increase of eight such services from the previous year. These services typically provide step-down inpatient healthcare services for patients who have finished their acute episode of care in acute hospitals, or specialist rehabilitation care. In some instances that also provide short term “step-up” rehabilitation care for people who reside at home and who are frail and have complex care needs, to proactively prevent potential future admission to acute healthcare services. HIQA report that overall, most of the rehabilitation and community inpatient services inspected were found to be either compliant or substantially compliant.¹⁴⁹

¹⁴⁷ Mental Health Commission (2020) ‘New review reveals an almost ‘total absence’ of community mental health services’. Available at: [2020 Acute Beds statement v6.pdf \(mhcirl.ie\)](#)

¹⁴⁸ HSE (2019), ‘National Strategy & Policy for the Provision of Neuro-Rehabilitation Services in Ireland’. Available at: [national-strategy-policy-for-the-provision-of-neuro-rehabilitation-services-in-ireland.pdf \(hse.ie\)](#) (Accessed 10- January 2024).

¹⁴⁹ HIQA (2021). ‘Overview Report Monitoring and Regulation of Health care Services in 2020’. Available at: [Healthcare Overview Report for 2020 \(hiqa.ie\)](#) (Accessed 10 January 2024).

258. Currently, there are only two partially staffed community neurorehabilitation teams up and running across Ireland which means that only 15% of neurological patients in Ireland have access to teams that provide vital care to support their recovery.¹⁵⁰ Nine community neurorehabilitation teams are required in Ireland as outlined in the Implementation Framework (2019-2021) for the National Neurorehabilitation Strategy.

The Committee recommends

Number	Recommendation
77	The HSE must ensure that all Community Care including Neuro-Rehabilitation Teams are established to ensure equity in service provision across the country and ensuring access to rehabilitation as a human right.

¹⁵⁰ [‘There is no local support’ | Cork Independent](#)

Article 27 Work and employment

Indication of overall progress

Limited Progress

Number	Indicators
1	Legislation enacted relating to all aspects of work and employment and training & employment services which are inclusive of persons with disabilities
2	No provisions in legislation or regulations which directly or indirectly restrict employment on the basis of disability
3	Adoption of a national plan (mainstream or disability-specific) that promotes vocational training inclusive of persons with disabilities
4	Adoption of a comprehensive national employment strategy and/or plan (mainstream or disability-specific) to promote the employment of persons with disabilities in public and private employment
5	Technical and financial assistance for employers, employees, trade unions on provision of reasonable accommodation in the workplace and making work environments and communications accessible
6	Social protection schemes providing benefits for persons with disabilities do not serve as disincentives and are compatible with work and employment
7	National accessibility standards adopted and applied to workplaces
8	National gender laws and policies relating to work and employment are inclusive of women with disabilities.
9	All legislation and policies enacted to combat forced or compulsory labour is inclusive of persons with disabilities.
10	All legislation enacted and policies to prohibit and eliminate the worst forms of child labour are inclusive of children with disabilities

Conclusions and recommendations

259. Article 27 of the UNCRPD requires the realisation of the right to work for people with disabilities in an environment that is open, inclusive, and accessible and should be free from discrimination because of disability throughout recruitment, employment, and career advancement practices.
260. The European Disability Forum (EDF) report in 2023 highlights that the employment rate of persons with disabilities in the Ireland continues to be the lowest in the EU at 32.6%, with lower full-time employment rates for women with disabilities at 15% and lowest employment rates for persons with high support needs 17.7%.¹⁵¹ However, the Committee are aware that international comparisons of disability employment rates are difficult as there are striking differences between the proportion of people declaring a disability in different EU countries.
261. This report also highlights that Ireland does not have quotas for employing people with disabilities in the private sector. In most EU Member States, if an employer fails to meet the quota, they must pay a fine, which governments often use to fund their policies promoting the employment of persons with disabilities, such as wage support or other incentives, vocational training, and other initiatives. Ireland has a quota for the public sector, but no quota for the private sector or any financial sanctions for non-compliance.
262. The NDA note that at least one third of people in receipt of Disability Allowance would like to work and that approximately three quarters of people of working age with disabilities acquired their disability between the ages of 18 and 65, many of whom had a prior connection to employment.
263. People with disabilities on Disability Allowance who take up employment are experiencing a disincentive to stay in employment, or progress their careers, because the criterion under this allowance requires they relinquish their medical card after three years and Free Travel after five years. The Committee welcome the Department of Social Protection's Public Consultation to Reform Disability Payments

¹⁵¹ [EDF 7th Human Rights Report. The Right to Work: The employment situation of persons with disabilities in Europe - European Disability Forum \(edf-fehp.org\)](https://edf-fehp.org/)

in Ireland however there is a need to consider the significant cost to having a disability and the impact of the loss of secondary benefits on career progression.

264. The Comprehensive Employment Strategy (CES) 2015 – 2024 and subsequent action plan is the main policy for the employment of people with disabilities and focusses on supporting people with disabilities to progress into employment. However, it has little reference to continued supports and career progression when a person with disabilities secures employment. Further, there was a lack of agreement on the final three-year action plan due to run from 2022-2024 and it appears has not yet been published.¹⁵²
265. The Committee held a public meeting, 13 July 2023, on increased employment participation, self-employment, and entrepreneurship for people with disabilities. The Committee heard from Eddie Hennessy and Matt McCann, both successful entrepreneurs, how people with disabilities have a diverse range of skills, talents, and passions, are expert problem solvers, and how self-employment and entrepreneurship provide both a path to independence, fulfilment, and a chance to contribute meaningfully to society and economy.
266. People with disabilities face additional and distinctive challenges in starting their own business that the general population does not face, including barriers in accessing start-up capital, losing Disability Allowance, having to adapt inaccessible built environments and continuously having to raise awareness of disability and needs, an often-overlooked part of the entrepreneurial journey. Further, an individual with a disability cannot get a grant to employ somebody without a disability, whereas an individual without a disability employing somebody with a disability could get a grant. The Committee heard that disabled entrepreneurs require tailored support to start their own business.
267. Professor Thomas M. Cooney, Technological University Dublin (TUD) told the Committee that there are 17,654 people with disabilities who are self-employed and who have employees in Ireland, according to the 2016 census that was carried out by the CSO. There are also 34,461 people with disabilities who are self-employed

¹⁵² NDA Independent Assessment of Implementation of the NDIS, pp. 34.

and have no employees. However, despite the number of people with disabilities who are self-employed, there is a great shortage of role models. There is also a significant lack of representation of people with disabilities in the marketing activities of relevant enterprise agencies.

268. With regard the policy response to self-employment for people with disabilities, Professor Cooney highlighted how the CES for People with Disabilities 2015-2024, action 2.10 proposed two actions, of which only one has been addressed. In the 2019-21 phase 2 action plan, action 2.7 proposed three actions. Only one of these has been addressed and that was due to the course introduced by TUD, which addressed the mentoring element. There is no strategy from Enterprise Ireland for working with people with disabilities even though that was one of the actions from one of the previous plans and there is significant inequity in provision of activities provided by some local development companies and the offerings are inconsistent.
269. Matt McCann, founder of Access Earth highlighted the need for an overall organisation with the expertise in-house as well as lived experience that can guide people through the entire life cycle journey. ONCE and PREDIF initiatives in Spain that focus on supporting the life journey of people with disabilities was highlighted as good models.
270. The Committee heard that welfare support can lead to one of the greatest barriers to self-employment, the welfare benefit trap. Professor Cooney highlighted research from the UK that shows that a binary welfare system, like the system in Ireland, whereby one must be either working or not working, is a significant barrier to self-employment. This system needs to be changed to allow for fluctuations in health and ability, as sometimes people with disabilities can work and sometimes cannot, but if they step off the line, they lose benefits. A significant issue was highlighted about the long waiting time to get reinstated when benefits are lost under the partial capacity benefit scheme. Flexicurity, the Danish labour market model was highlighted as a good model as it provides for a wage subsidy that is available to people with disabilities regardless of whether they are working as an employee or as a self-employed person.

271. The Reasonable Accommodation process is poorly understood and implemented. A significant cause of discrimination is lack of awareness about disability, disabling conditions and the needs and abilities of people with disabilities. A whole organisation approach is needed to ensure disability inclusive workplaces and building of cultures which are positive towards employees with disabilities and provides access to reasonable accommodations, while increasing the likelihood that employees will disclose and access the supports that they need.¹⁵³ Standard training across public and private sectors on disability inclusion and reasonable accommodation is required.
272. There must also be a focus on ensuring progress addressing access to, or affordability of necessary aids, appliances or assistive technologies required for everyday living, for those people with disabilities whose entry, retention or return to work could be jeopardised due to being unable to afford these items.

The Committee recommends

Number	Recommendation
78	<p>The Department of Children, Equality, Disability, Integration and Youth must ensure that the UNCRPD implementation plan includes measures to remove or reduce the barriers to work for people with disabilities, with particular focus on self-employment including;</p> <ul style="list-style-type: none"> a) collecting more data on self-employment and people with disabilities b) creating an awareness campaign that highlights the benefits of self-employment, promotes role models, and establishes a network of entrepreneurs with disabilities c) developing a standard entrepreneurship support scheme for people with disabilities that includes adequate financing options, one-to-one mentoring and co-designing schemes with disability organisations and dedicated website with tailored information d) ensures there are pathways back into income support systems when start-ups are not successful.

¹⁵³ UCD. [Managers Guide to Disability and Reasonable Accommodations.pdf \(ucd.ie\)](#). (Accessed 10 January 2024)

- 79 The Department of Social Protection must consult with people with disabilities and DPOs and assess the welfare system and how it supports the self-employment of people with disabilities including consideration of international best practice.
- 80 The Department of Children, Equality, Disability, Integration and Youth must develop a coherent national approach to the quota system for 10% employment of people with disabilities and ensure enforcement in public bodies at agency level. A quota system promoting the employment of persons with disabilities in the private sector must also be introduced as well as financial sanctions for non-compliance for both private and public sectors.
- 81 The Department of Enterprise, Trade and Employment must develop a national programme for vocational rehabilitation.
- 82 The State must ensure that reasonable accommodation is provided to all persons with disabilities who require it in the workplace, that standard and regular training on reasonable accommodation is available to employers and employees without disabilities, and that dissuasive and effective sanctions are in place in cases of denial of reasonable accommodation.
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Article 28 Adequate standard of living and social protection

Indication of overall progress

Limited Progress

Number	Indicators
1	Legislation enacted and national policy/plan adopted inclusive of persons with disabilities to ensure access to all mainstream and disability-specific programmes and services on an equal basis with others, including all social programmes, housing, nutrition, water, sanitation, hygiene and health (WASH)
2	National accessibility standards adopted and applied to public and private housing, access to water and sanitation
3	Legislation on social protection and poverty reduction which explicitly refers to persons with disabilities and ensures their equal access to all social protection programmes, including both social assistance and social insurance
4	Mainstream and disability-targeted contributory and non-contributory social protection systems and programmes meet legislative criteria set out in indicator 28.3, and ensure programmes and services are inclusive of persons with disabilities
5	No legal, regulatory provision or policy measure which requires: <ul style="list-style-type: none">• renouncing of legal capacity by persons with disabilities;• conditionalities which cannot be fulfilled, or which lead to adverse effects for beneficiaries, in order to access benefits and social protection programmes

Conclusions and recommendations

273. The UNCRPD adopts a broad understanding of social protection that effectively contributes to the realisation of essential rights such as social security, adequate standards of living, living independently in the community and access to health care, education, and employment. Implementation of these rights involves a high level of

collaboration between central and local government along with consultation with people with disabilities and their DPOs.

274. As discussed under previous articles, there is significant linkages between welfare and work, and welfare support is one of the greatest barriers to employment and self-employment for people with disabilities. The binary welfare system in Ireland, whereby one must be either working or not working, is considered inflexible to people with disabilities needs. It is known as the welfare benefit trap because it, and the loss of secondary benefits, results in locking people with disabilities in economic poverty, instead of supporting their economic empowerment, to take up, and progress in employment, and a career. Further, as highlighted consistently by DWI to the Committee, a lack of financial independence has been found to be one of the most significant risk factors in being exposed to intimate partner violence, financial dependence is also the most common barrier to escaping an abusive relationship and this is happening in Ireland due to disabled women's partner's income reducing or removing that individual's disability supports.
275. The Committee are aware that the Department of Social Protection is undertaking a comprehensive consultation on their review of disability payments that includes DPOs, however, there is a requirement to ensure meaningful consultation with disabled women.
276. People with disabilities face more barriers to fully participate in social and economic life and access relevant rights and are therefore disproportionately affected by social and economic shocks. This sustains the increased risk of poverty, social exclusion, and deprivation throughout their life cycle. In Ireland, people with disabilities have been more disadvantaged by the climate, health, housing, cost of living and the energy crisis. Social development is not meaningfully disability proofed at central levels.
277. The European Semester Country Report 2023 for Ireland states that one in five people in Ireland were at risk of poverty or social exclusion (AROPE) in 2021, although this is an overall improvement, disadvantaged groups became poorer. The AROPE rate for persons with disabilities grew by 4.3 pps to 39.3%, twice as high as for the general population and 10 pps higher than the EU average. The main reasons

for this trend are low educational attainment, high early school leaving rates and EUR 8 700-12 300 in individual extra costs per year (e.g., for medicine, mobility, and transport).¹⁵⁴

278. To promote social inclusion of people with support needs in line with the targets set by the Europe 2020 strategy, the European Expert Group on the Transition from Institutional to Community-based Care state that countries must move away from the institutional model of care towards a system of person-centred community-based care and support. The Expert Group notes that the Social Investment Package and the new the ESIF 2014-20 give renewed impetus to Member States to develop more effective and efficient social protection systems. Investment in the transition to personalised community-based services is an investment in human potential and social inclusion. The European Semester, the social OMC and the ESIF processes provide opportunities for structured policy monitoring on this issue.¹⁵⁵
279. The findings of the Indecon Cost of Disability Report, published in 2021 has significant implications for many areas of public policy income supports and taxation, full implementation of the report recommendations is a cross departmental undertaking. As highlighted, the NDIS ended in 2022 and a successor strategy has not yet been published, however the NDA recommend that departments continue to implement measures to address the cost of disability in their departments and consideration be given to how the topic can be incorporated in the successor strategy.

¹⁵⁴ European Commission (2023). 'Commission Staff Working Document 2023 Country Report – Ireland.' pp. 57

¹⁵⁵ European Expert Group on the Transition from Institutional to Community-based Care. Available at: [Community-based Care | The European Expert Group on the Transition from Institutional to Community-based Care \(deinstitutionalisation.com\)](https://community-based-care.europa.eu/). (Accessed 10 January 2024).

The Committee recommends

Number	Recommendation
83	The Department of Social Protection must ensure, in consultation with people with disabilities and DPOs, the elimination of discriminatory practices in welfare allowances, benefits, pensions and tax exemptions.
84	The Department of Social Protection must reform the regulations of the adult disability allowance to separate the income of persons with disabilities from that of their spouses/partners and strengthen measures to support couples composed by persons with disabilities and parents of children with disabilities.
85	The Department of Social Protection must mainstream the rights of persons with disabilities into the Roadmap for Social Inclusion 2020 - 2025 and include additional measures and budgets to address situations of disadvantage and exclusion concerning people with disabilities.

Article 29 Participation in political and public life

Indication of overall progress

Limited Progress

Number	Indicators
1	Legislation on political and electoral systems which are inclusive of persons with disabilities and guarantees their right to vote and to stand for elections, to effectively hold office and perform all public functions at all levels and branches of government on an equal basis with others
2	No provisions in the constitution, legislation or regulations which restrict the rights of persons with disabilities to vote, be elected and hold office and perform all public functions
3	Accessibility standards established and applied to voting procedures, voting environment, facilities and materials and to all public buildings
4	Legal requirement to collect data on the number and proportion of persons with disabilities registered to vote, exercising the right to vote, including on related complaints, and on the number and proportion of persons with disabilities holding office and performing public functions.
5	Adoption of a national plan by the election management body to ensure accessibility of voting procedures, environment, facilities, materials and complaint mechanisms, and inclusive practices regarding: voter registration and voter education, recruitment and training of poll workers and staff
6	Legislation and regulations enacted that ensure the right of persons with disabilities to vote through secret ballot on their own, the right to be assisted by a person of their choice with full respect of their free expression of will, and the duty to provide reasonable accommodation in all voting processes
7	Adoption of specific measures to promote:

- the participation of persons with disabilities in the activities and administration of political parties;
- the standing for election of candidates with disabilities;
- the election of candidates with disabilities; and
- their holding by persons with disabilities of public functions and public service positions

8	Existence of legal provisions to ensure entitlement to, and availability of support measures for candidates with disabilities to stand for election and hold office effectively, on an equal basis with others
9	Legislation enacted to ensure the right to freedom of association inclusive of persons with disabilities, notably by promoting the development of organizations of persons with disabilities, including protection against intimidation, harassment and reprisals, particularly when expressing dissenting opinions
10	Legislation enacted on public participation that is inclusive of persons with disabilities
11	No provision in the constitution, legislation or regulations, which restrict the right of freedom of association on the basis of disability

Conclusions and recommendations

280. Ireland legally upholds the right to vote for all persons with disabilities, without restrictions. As per Census 2022, 22% of people in Ireland have a disability, and there is a need to ensure that these individuals, who are eligible, have full access to their right to vote, and political participation in an inclusive democracy. The right to vote is at the centre of what it means to live in a democratic society. However, not all polling stations are fully accessible and there is dependency on postal voting for people with disabilities, which excludes people with disabilities from participating in the symbolism of turning up to a polling station, like everyone else.

281. The Electoral Reform Act 2022 brought more positive change with the establishment of an Electoral Commission which is envisaged will carry out public awareness and an education role in respect of electoral events and promote greater turnout function with a particular emphasis on increasing participation in the

democratic processes among segments of society which are marginalised or traditionally under-represented in electoral matters. Importantly, the Electoral Commission will prepare an independent review report after each electoral event.

282. In Ireland, a person with disabilities, including illness or mental difficulty or if a person resides in a nursing home or other institution which prevents him or her from going to the polling station, can vote by post. Electoral law also provides that voters who are unable to vote without assistance may avail of companion voting or seek the assistance of the Presiding Officer. Ireland has also developed and improved Ballot Paper Templates, plastic devices with tactile features which are overlaid on ballot papers to enable blind and vision impaired people to vote in private at electoral events.
283. However, people with disabilities are underrepresented in decision making bodies and have fewer opportunities to exercise their right to vote or stand for election. Young people with disabilities have very narrow opportunities.
284. At the public meeting, 25 October 2023, the Electoral Commission stated that they will be focusing on a Universal Design approach to promote greater turnout function with a particular emphasis on increasing participation in the democratic processes among segments of society which are marginalised or traditionally under-represented in electoral matters. Disability Federation of Ireland (DFI) highlighted the importance of the ‘act of voting’ as well as creating opportunities for persons with disabilities to participate easily, with appropriate supports, particularly at local community level. In addition, political parties and groups have a responsibility to make internal changes.
285. The rights to vote and stand for election of persons with disabilities in the EU are guaranteed under the UNCRPD ratified by the European Union and, since 2018, by all its member states. However, the Committee heard at the public meeting, 1 December 2022, that unfortunately, they are not yet a reality for all EU citizens with disabilities. DFI highlighted that the transfer of services for a person with disabilities continues to be a barrier to participation as an EU candidate.

286. There is a need to ensure mainstreaming of disability inclusion across all political parties and groupings to ensure the participation of disabled people as candidates. All political parties must implement measures as outlined by ILMI in ‘Enabling participation: supporting the involvement of disabled people in political parties’¹⁵⁶ and especially work with DPOs to disability equality proof their policies and procedures to address any structural barriers to the participation of disabled people in their parties.
287. The Committee continue to recommend that the Department of Foreign Affairs must ensure that the Election Observation process in Ireland provides for the participation of people with disabilities and increase recruitment of observers with disabilities to a minimum of 15% of observers with a disability.

The Committee recommends

Number	Recommendation
86	The State must withdraw or amend any provision that restricts the opportunity for persons with disabilities to become candidates, including those under guardianship.
87	The Electoral Commission must consult with DPOs on the barriers that people with disabilities face, as well as implementing equality and disability awareness training for returning officers.
88	The Department of Housing, Local Government and Heritage must ensure full accessibility of all polling stations.

¹⁵⁶ Independent Living Movement Ireland (2022). ‘Enabling participation: supporting the involvement of disabled people in political parties.’ Available at: [Enabling-Participation-ILMI-Position-Paper.pdf. \(Accessed 10 January 2024\).](#)

Article 30 Participation in cultural life, recreation, leisure and sport

Indication of overall progress

Limited Progress

Number	Indicators
1	Legislative provisions enacted across related sectors to ensure the right of persons with disabilities to participate in cultural life, recreation, leisure and sport
2	Accessibility standards adopted related to tourist sites, museums, art galleries, cultural centres and facilities, national and public parks and other public spaces, sports centres and facilities, covering accessibility of the built environment, information and communications.
3	Legal framework establishing mandatory standards on accessibility of information and communication for both public and private actors that provide information and services to the general public, including through mass media, encompassing digital and social media
4	National strategy/plan to raise awareness about cultural identities of persons with disabilities, including deaf culture, and to support their recognition and development on an equal basis with others, including through research, awareness raising and cultural grass-roots activities
5	Legislation enacted recognizing sign language as an official language, as well as promoting the use of Braille, Easy to Read Format, captioning, tactile communication, support person for communication, among others, and ensuring their use in official interaction(s), as chosen/requested by persons with disabilities
6	Ratification of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled

- | | |
|---|---|
| 7 | Adoption of a national policy/strategy/plan to promote participation in cultural life, which is inclusive of persons with disabilities, both as active participants and as beneficiaries/spectators |
| 8 | Adoption of a national policy/strategy/plan on sport which is inclusive of persons with disabilities |
| 9 | Existence of a national policy/strategy/plan recreation and leisure which is inclusive of persons with disabilities |
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Conclusions and recommendations

288. Persons with disabilities continue to experience significant barriers to human rights because of inaccessible healthcare, communities, information and communications, transport, education, and employment, which can then sustain a low participation rate in cultural life, recreation, leisure, and sport.
289. Ireland's National Sports Policy 2018 – 2027 aims to use the potential of sport for social inclusion, integration and equal opportunities and increasing participation rates for people with disabilities in sport. The National Cultural Policy Framework to 2025 and Culture Ireland's new Strategy 2022 -2025 makes no reference to how the strategy will ensure inclusion and participation of people with disabilities in cultural life as per the UNCRPD.
290. The Social Inclusion and Community Activation Programme (SICAP) 2018 – 2023 provides funding to tackle poverty and social exclusion through local engagement and partnerships between disadvantaged individuals, community organisations and public sector agencies. It is envisaged that a new programme will be rolled out in January 2024.¹⁵⁷

¹⁵⁷ [The Social Inclusion and Community Activation Programme | SICAP \(pobal.ie\)](https://pobal.ie/en/the-social-inclusion-and-community-activation-programme-sicap/)

The Committee recommends

Number	Recommendation
89	The Department of Tourism, Culture, Arts, Gaeltacht, Sport, and Media must ensure that the National Cultural Policy Framework to 2025 and Culture Ireland’s new Strategy 2022 -2025 raises awareness about cultural identities of persons with disabilities and promotes participation in cultural life, both as active participants and as beneficiaries/spectators.
90	The Department of Social Protection consider provision in social protection legislation to exclude income from grants, bursaries, and awards from means assessment like the income disregard in “Catherine’s Law”.

Article 31 Statistics and data collection

Indication of overall progress

No Progress

Number	Indicators
1	<p>Legislation enacted that regulates the national statistical system coordinated by the national statistics office and which:</p> <ul style="list-style-type: none">• complies with internationally accepted norms and ethical principles in collection and use of data,• mandates the availability of high-quality, timely and reliable data disaggregated by income, sex, age, race, ethnicity, migratory status, disability, geographic, location and other characteristics relevant to national contexts (based on SDG Target 17.18)• establishes safeguards and remedies, including concerning data protection, to ensure confidentiality and respect for privacy of persons with disabilities;• ensures coordination for the production of administrative data on persons with disabilities
2	<p>National strategy or plan to ensure the production and storage of statistical data disaggregated by disability within the national statistical system across all sectors and undertake and promote research on the rights of persons with disabilities to identify barriers to their implementation, in connection to all rights</p>
3	<p>Legal requirement to establish a marker on all public spending specifically on research and data collection and disaggregation related to persons with disabilities and the barriers they face in the exercise of their rights, and all related activities (trainings, awareness raising campaigns, etc.)</p>
4	<p>Legislation enacted providing for access to statistical and research data in accessible formats and technologies, without additional cost</p>
5	<p>National strategy or plan to ensure wide dissemination by the State, particularly among persons with disabilities, of available statistical and research information on persons with disabilities and on their rights in accessible formats</p>

- 6 Legal requirement to establish a marker on all public spending to make information intended for the general public available in accessible formats
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Conclusions and recommendations

291. Article 31 of the UNCRPD requires State Parties to acquire the disability data and statistics that will facilitate UNCRPD implementation and its monitoring, and there is no precedent for such a provision in human rights treaties.¹⁵⁸
292. The recent Census 2022 results published by the Central Statistics Office (CSO) highlights that a total of 1,109,557 people reported experiencing at least one long-lasting condition or difficulty to any extent, accounting for 22% of the population. A significant increase from 13.5% in 2016.¹⁵⁹ However, there is a significant amount of under reporting about services and issues related to disability, across all sectors. This is sustaining the lack of transparency and progress about human rights for people with disabilities, as well as the lack of public awareness.
293. The Committee are aware that DCEDIY are developing a National Equality Data Strategy. This strategy is an important element of creating a new suite of Equality Strategies which have measurable impacts built in. Equality data will help the State analyse where needs are most acute and what impact interventions are having.¹⁶⁰ There is a need to develop CRPD compliant Equality Budgeting in tandem.
294. The Committee's recommendations to improve data collection and disaggregation to ensure people with disabilities are visible in statistics are available in previous reports. The Committee continue to recommend that the work of the CSO and other public statistical analysis, including financial modelling and analysis, should contribute to and strengthen understanding of the implementation and achievement of UNCRPD and the SDGs targets and indicators in respect of disability.

¹⁵⁸ NDA, [Overview of UNCRPD Article 31 Statistics and Data Collection](#).

¹⁵⁹ Direct comparison cannot be made as different criteria were used in 2016 and 2022 Census. See [Background Notes - CSO - Central Statistics Office](#)

¹⁶⁰ [gov.ie - Minister O'Gorman announces the development of a National Equality Data Strategy \(www.gov.ie\)](#)

The Committee recommends

Number	Recommendation
91	Developing nationally consistent measures for the collection and public reporting of disaggregated data on the full range of obligations contained in the Convention, especially with regard to women, children, travellers, and migrants as well as dynamic and invisible disabilities.
92	Promoting independent and inclusive research, in partnership with persons with disabilities, to provide an evidence base to inform disability-related policies and programmes.
93	The Central Statistics Office must consider undertaking a national disability survey to inform reporting on disability.

Article 32 International cooperation

Indication of overall progress

Limited Progress

Number	Indicators
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|---|--|
| 1 | <p>Legislation and policies adopted on international cooperation agreements (bilateral or multilateral) relating to sustainable development including the promotion of democracy, rule of law, good governance and human rights, incorporate:</p> <ul style="list-style-type: none">• targets and commitments on the inclusion of the rights of persons with disabilities in international cooperation;• a marker on the inclusion of persons with disabilities with respect to each aid activity and on the allocation of resources;• requirements to apply universal design, accessibility and respect for CRPD principles and standards, and for data collection and disaggregation by sex, age and disability on aid activities;• accessibility standards in all procurement contracts related to aid activities;• requirement to report on the consultation and participation of persons with disabilities and their representative organizations in the planning, implementation, monitoring and evaluation of activities;• sustainability and safeguard policies to prevent and mitigate the adverse impact of activities of international cooperation agreements on people and the environment; and• the requirement to conduct an impact assessment taking into account measures to remove barriers and enable persons with disabilities to benefit from aid activities |
| 2 | <p>Universities and research centres adopt guidelines/policies on research establishing:</p> <ul style="list-style-type: none">• a marker to track activities and financing related to the inclusion of persons with disabilities;• participatory methodology inclusive of persons with disabilities for the definition of research priorities, methods, design, implementation and evaluation of research projects. |

Conclusions and recommendations

295. The Committee heard that 15% of the world's population lives with a disability and over 80% of this number live in developing countries. Persons with disabilities are disproportionately affected by climate change and natural disasters, pandemics and health crises, humanitarian situations, conflict, and post conflict crises.
296. The UNCRPD is the first human rights treaty with a standalone provision on development under Article 32, international cooperation. Article 32 requires State Parties to ensure that international cooperation is inclusive and accessible to disabled people. that disability is mainstreamed in all development programs, and that DPOs are involved in the monitoring of these activities. Article 11 of the Convention, situations of risk and humanitarian emergencies, requires State Parties to take adequate actions to protect disabled persons in situations of natural disaster or humanitarian emergencies.
297. Both these articles, provide a roadmap for disability policy in international humanitarian and development cooperation through ensuring: (1) a human rights-based approach to development and humanitarian aid; (2) disability mainstreaming as a leitmotif of international cooperation; and (3) the importance of DPO involvement.¹⁶¹
298. The UN Committee notes that the 2030 Agenda for Sustainable Development and the SDGs promotes the principle of Leaving No One Behind and is meant to guide States in implementing national, regional and international development policies and strategies to achieve the SDGs. Irelands SDG implementation should therefore support the achievement of the SDGs in developing countries, to tackle extreme poverty and inequality.
299. Ireland plays a central role in the EU's Global Strategy which seeks to advance political relations, trade, development, and security in all regions of the world. Ireland funds the EU's development programme and uses its membership of the EU to influence the direction of its overall development co-operation policies to ensure that, in line with the SDGs, they deliver results and make a real difference to

¹⁶¹ T. Degener (2016). 'Disability in a Human Rights Context', *Laws* 5, no. 3: 35. Available at: <https://doi.org/10.3390/laws5030035>. (Accessed 10 January 2024).

and fragility.¹⁶²

- divergence of rights.¹⁶⁴

¹⁶³ Government of Ireland (2019). 'A Better World Ireland's Policy for International Development.' Available at: [A-Better-World-Irelands-Policy-for-International-Development.pdf \(prod-ireland-ie-assets.s3.amazonaws.com\)](#). (Accessed 10 January 2024).

[Joint Committee on the Implementation of the Good Friday Agreement debate](https://www.credentia.co/joint-committee-on-the-implementation-of-the-good-friday-agreement-debate) Thursday, 27 Jan 2020 (credentia.co)

The Committee recommends

Number	Recommendation
94	The State must adopt a disability inclusive approach to international co-operation and ensure the rights of persons with disabilities, including living independently and being included in the community, as a cross-cutting conditionality in all its programmes and strategies of international cooperation. The State should ensure full and effective participation of persons with disabilities through their representative organisations in the design, implementation, monitoring and evaluation of international programmes and projects.

Article 33 National implementation and monitoring

Indication of overall progress

Limited Progress

Number	Indicators
1	Legal and/or statutory appointment of one or more focal points within government (across all branches and levels of government, ministries, and sectors) with sufficient authority to mainstream the rights of persons with disabilities for implementation of the Convention
2	With a view to enhancing national implementation, legal and/or statutory appointment of a coordination mechanism within government to facilitate related action across different sectors and levels, with a clear structure, mandate, leadership, and sufficient authority to ensure mainstreaming and implementation of the Convention
3	Adoption of regulations and/or protocols addressed to public sector staff on the functioning of, and engagement and collaboration with focal points and coordination mechanisms
4	Adoption of regulations and/or protocols addressed to civil society organizations, notably organizations of persons with disabilities, on the functioning of, and engagement with focal points and coordination mechanisms
5	Legal and/or statutory requirement to adopt a marker on public spending aimed at ensuring the activity of the focal point(s) and coordination mechanism(s) related to CRPD implementation
6	<p>In close consultation with civil society organizations, and particularly with persons with disabilities and their representative organizations, establishment of a framework to promote, protect and monitor the implementation of the Convention:</p> <ul style="list-style-type: none">• including one or more independent mechanism(s) that are appointed through the Constitution or legislation; and

- which respects the principles relating to the status and functioning of national institutions for protection and promotion of human rights, (includes SDG indicator 16.a.1)

7	Legal requirement of a marker related to CRPD implementation and monitoring adopted and applied to public spending directed to the mechanism(s) of the monitoring framework
8	Legal or regulatory provision(s) which establish inclusive and accessible procedures and mechanisms for the involvement of persons with disabilities, including children with disabilities, and their representative organizations, across all disability constituencies, in monitoring the implementation of the Convention
9	Legal provision(s) requiring allocation of funds from the national budget to financially support the strengthening of organizations of persons with disabilities to participate in monitoring of CRPD implementation

Conclusions and recommendations

303. The Joint Committee on Disability Matters is one of the first parliamentary committees in the world to monitor the UNCRPD. The Committee undertook an exercise to identify other states that have parliamentary committees with a similar function and convened a public meeting to learn from other jurisdictions implementing and monitoring the Convention. Considering the importance of the work of the Committee in monitoring implementation of the Convention and its awareness raising, it is vital that the Committee is reconvened under the next Dáil.
304. There is also a need to enable systematic capacity building programmes among public officials and governance mechanisms concerning the implementation of the Convention as well as, and discussed previously, strengthening government mechanisms for DPO participation and consultation.
305. The commencement of the Assisted Decision Making (Capacity) (Amendment) Act 2022 designated IHREC as Ireland's independent monitoring mechanism of the UNCRPD.

306. The UNCRPD Implementation Plan is the foremost priority for disability policy in Ireland and the State must ensure effective coordination to ensure human rights for people with disabilities.
307. The NDIS is a whole-of-government approach to improving the lives of persons with disabilities and provides a framework for delivering the obligations of the UNCRPD. In 2021, it was announced that the NDIS would be extended for one year, until the end of 2022. DCEDIY have commenced the process of consultation on the next iteration of the NDIS. The NDA independently monitors and evaluates progress in the implementation of the NDIS.
308. The DSG is a voluntary group of individuals with expertise and lived experience of disability and has an important role in monitoring the implementation of the NDIS. It currently comprises of 25 members, representing a crosscut of the disability community, and includes an independent Chairperson.
309. Departmental DCCs meet on a quarterly basis to discuss the progress of the NDIS in advance of the Steering Group meetings, chaired by the Minister of State with responsibility for Disability. Officials from DCEDIY are also developing standard operating procedures to try and standardise meetings as they have observed that not all DCCs are conducted in the same way.
310. The fifth and final independent assessment of the NDIS was published by the NDA in June 2023 and highlights that due to a lack of development of a UNCRPD Implementation Strategy to succeed the NDIS, this has led to, and continues to sustain a gap in terms of an overarching whole-of-government national policy on disability as well as a significant lack of progress with regard NDIS implementation. DCEDIY intend to publish the UNCRPD implementation plan in 2024.
311. The NDA has been requested to carry out an independent evaluation of the DPCN in the first half of 2023. The evaluation will focus on the extent to which the DPCN model in its current iteration meets the requirements of UNCRPD Article 4 (3) and will make recommendations to DCEDIY in this regard to inform future decision-making in this space.

The Committee recommends

Number	Recommendation
95	The UNCRPD Implementation Plan must be published and ensure the mainstreaming of needs assessment and early intervention.
96	Strengthen mechanisms for participation and consultation of people with disabilities and their DPOs on implementation, evaluation and monitoring of the UNCRPD Implementation Plan.
97	The Government must ensure the Joint Committee on Disability Matters is reconvened under the subsequent Dáil and Seanad.
98	The Committee continue to recommend strengthening the government mechanism for coordinating and monitoring the implementation of the Convention at the central and local authority levels to build the capacity to mainstream the rights of persons with disabilities into all sectors and levels of Government.

Appendix 1 - Public stakeholder engagement

Date of public meeting and transcript	Meeting topic	Witnesses
10 March 2022	Enabling Financial Independence for Women with Disabilities	<ul style="list-style-type: none"> Representatives from Disabled Women Ireland, Amy Hassett, Co-Director, Nem Kearns, Board Secretary & Aoife Price, Partnerships & Outreach Lead Representatives from Independent Living Movement Ireland, Paula Soraghan & Nicola Meacle
28 April 2022	Situations of Risk and Humanitarian Emergencies - (Article 11)	<ul style="list-style-type: none"> Representatives from European Disability Forum, Catherine Naughton, Director Dr Mary Keogh, Advocacy Director, CBM Global
05 May 2022	Situations of risk and humanitarian emergencies, Article 11 - resumed	<ul style="list-style-type: none"> Dr. Rosaleen McDonagh IHREC Member Representatives from WALK, Joe Mason CEO, Catherine Kelly Deputy CEO & Olena Dmytriieva Representatives from AsIAm, Adam Harris, CEO
01 December 2022	Disability inclusive participation in political and public life	<ul style="list-style-type: none"> Representatives from European Disability Forum, Pat Clarke, Vice President Representatives from Disability Stakeholder Group, Annette Costello, Robbie Sinnott, John Dolan & Ciarán Delaney
19 January 2023	UNCRPD Implementation and the Optional Protocol (resumed)	<ul style="list-style-type: none"> Roderic O'Gorman T.D., Minister for Children, Equality, Disability, Integration and Youth Officials from DCEDIY, Colm O'Conaill, Assistant Secretary General, Niall Brunell, Principal Officer, Tara Smith, Assistant Principal Officer & John Gilbane, Assistant Principal Officer
02 February 2023	Public awareness of living with a disability	<ul style="list-style-type: none"> Catherine Gallagher, PhD student and Disability Activist Representatives from Family Carers Ireland, Catherine Cox, Head of Communications and Carer Engagement & Jane Johnstone, Caring Employers Promotions Officer & Family Carer

16 February 2023	Disability proofing and data	<ul style="list-style-type: none"> Representatives from The Central Statistics Office, Cormac Halpin, Census Outputs Division, Kieran Culhane, Statistical System Coordination Unit & Fiona O’Riordan, Social Data Collection division Representatives from DPO Network, Jacqui Browne, Chair & Grace Murphy, member, Amy Hassett, member & Nem Kearns, member Representatives from Irish Human Rights and Equality Commission (IHREC), Sinéad Gibney, Chief Commissioner & Dr Iris Elliot, Head of Policy and Research
09 March 2023	Self-Advocacy and Women with disabilities	<ul style="list-style-type: none"> Eliona Gjecaj, Disability activist and researcher Representatives from Disabled Women Ireland, Amy Hassett, Co-director, Nem Kearns, Co-director & Sarah McNabb, Steering Group Member/ Campaigns Lead Representatives from Inclusion Ireland, Derval McDonagh, Chief Executive Officer & Una Coates, Spokesperson & Chairperson of Inclusion Ireland’s Self Advocacy Committee
30 March 2023	Leave no one behind: Climate crisis and disability	<ul style="list-style-type: none"> Officials from Dept. of Environment, Climate and Communications, Dr Robert Mooney, Assistant Principal, Climate Engagement and Adaption Division & Hannah Gilmartin, Assistant Principal, Climate Engagement and Adaption Division Representatives from Independent Living Movement Ireland (ILMI), Damien Walshe, Chief Executive & Peter Kearns, Onside Project Manager
20 April 2023	Rights-Based Approach and Disability Legislation	<ul style="list-style-type: none"> Representatives from National Disability Authority, Dr Aideen Hartney, Director, Dr Rosalyn Tamming, Head of Policy, Research & Public Affairs & Mr Dharragh Hunt, Senior Policy Advisor
27 April 2023	Rights-Based Approach and Disability Legislation	<ul style="list-style-type: none"> Officials from DCEDIY, Colm Ó Conaill, Assistant Secretary, Disability & Youth, Niall Brunell, Principal Officer, Disability Equality Policy team, Jason Doran, Assistant Principal, Children’s Services team & Eithne Fitzgerald, Disability Adviser, Disability & Youth Division. Officials from Dept. of Education, Martina Mannion, Assistant Secretary, Martin

		McLoughlin, Principal Officer, Special Education, Frank Hanlon, Principal Officer, Special Education & Brendan Doody, Principal Officer, Special Education
01 June 2023	DPO's and the implementation of the UNCRPD (resumed)	<ul style="list-style-type: none"> Representatives from Disability Power Ireland, Maryam Madani, Chair/Founder & Peadar O'Dea, Policy Officer Representatives from DPO Network, Dr. James Casey, Independent Living Movement Ireland, Joe McGrath, National Platform for Self-Advocates & John Sherwin, CEO, Irish Deaf Society Representatives from Physical Impairment Ireland (PII), Peter Gohery, National Chairperson & Leo Kavanagh, Member Representatives from Voice of Vision Impairment, Dr. Robert Sinnott, Co-Ordinator Frances Quan Farrant, Disability and Human Rights Advocate
06 July 2023	Increasing employment participation – career progression	<ul style="list-style-type: none"> Representatives from European Disability Forum, Haydn Hammersley, Social Policy Coordinator Officials from Dept. of Social Protection, Fiona Ward, Assistant Secretary, Employment Services, Tadgh O'Leary Principal Officer, Contracted Services & Annette Conroy Principal Officer, Employment Services Policy
13 July 2023	Increasing employment participation – self-employment and entrepreneurship for people with disabilities	<ul style="list-style-type: none"> Eddie Hennessy Representatives from Technological University Dublin, Prof. Thomas M. Cooney, Professor of Entrepreneurship Representatives from Access Earth, Matt McCann, Chief Executive Officer
20 September 2023	National Disability Inclusion Strategy (resumed)	<ul style="list-style-type: none"> Representatives from National Disability Authority, Dr. Aideen Hartney, Director & Dr Rosalyn Tamming, Head of Policy, Research and Public Affairs Representatives from Disability Stakeholder Group (DSG), Renée Dempsey-Clifford, Independent Chair & Dharragh Hunt, Secretary to DSG

27 September 2023	Accessibility	<ul style="list-style-type: none"> • Officials from Dept. of Transport, Garret Doocey, Assistant Secretary, Land Transport, John Boylan, Principal Officer, Public Transport & Akriti Brady, Assistant Principal, Accessibility and Rural Transport • Representatives from National Transport Authority (NTA), Anne Graham, Chief Executive Officer & Hugh Creegan, Deputy Chief Executive Officer
04 October 2023	Enhanced Transport and Mobility Support Options for People with Disabilities	<ul style="list-style-type: none"> • Anne Rabbitte, Minister of State at the Department of Health and at the DCEDIY • Officials from DCEDIY, Deirdre Comiskey, Principal Officer, Disability Children's Services Unit, Tara Smith, Assistant Principal, Disability Equality Policy Unit & Donie O'Shea, Equality Policy Advisor
11 October 2023	International co-operation: UNCRPD and the 2030 agenda for sustainable development	<ul style="list-style-type: none"> • Representatives from CBM Global Dualta Roughneen, CEO, & Mahbub Kabir, Advocacy Manager • Representatives from Irish Aid, Department of Foreign Affairs, Michael Gaffey, Director-General, Irish Aid, Anderson Finlay, First Secretary, Human Rights Unit, Political Division & Dr Sarah Hunt, Director of Policy Unit at Irish Aid • Officials from Dept. of Environment, Climate and Communications, Niall McLoughlin, Principal Officer & Fiona McManus, Assistant Principal
18 October 2023	Implementing inclusive education in schools	<ul style="list-style-type: none"> • Officials from Dept. of Education, Martina Mannion, Assistant Secretary, Inclusion Division, Brendan Doody, Principal Officer, Special Education Section, Frank Hanlon, Principal Officer, Special Education Section, Martin McLoughlin, Principal Officer, Special Education Section • Officials from Dept. of Education, Jill Fannin, Principal Officer, Teacher Education Section & Gráinne Cullen, Principal Officer, Social Inclusion Unit
25 October 2023	Ensuring inclusive local and EU elections	<ul style="list-style-type: none"> • Representatives from Disability Federation of Ireland, John Dolan, Chief Executive Officer & Joan Carthy • Representatives from An Coimisiún Toghcháin, The Electoral Commission, Art O'Leary, Chief Executive & Dr Mary Clare O'

Sullivan, Head of Electoral Integrity and
Research

Appendix 2 - Written Submissions

Reference	Topic	Submitter
JCDM-r674	Rights-Based Approach and Disability Legislation	Disability Power Ireland
JCDM-r675	Rights-Based Approach and Disability Legislation	DPO Network
JCDM-r676	Rights-Based Approach and Disability Legislation	Voice of Vision Impairment
JCDM-r677	Rights-Based Approach and Disability Legislation	Prof. Eilíonóir Flynn NUIG
JCDM-r747	Rights-Based Approach and Disability Legislation	Department of Health
JCDM-r748	Rights-Based Approach and Disability Legislation	Department of Further and Higher Education, Research, Innovation and Science
JCDM-r827	Accessibility	Access Earth