

Call for Inputs on the two Draft General Comments
on Article 11 of the Convention on the Rights of Persons with Disabilities
Italy and the Italian Red Cross contribution

July 2026

The Italian Ministry of Foreign Affairs and the Italian Red Cross, which jointly drafted this submission, appreciate the CRPD Committee's work on these Draft General Comments and consider the elaboration of authoritative guidance on Article 11 an important opportunity to strengthen implementation of the Convention across the situations of risk covered by that provision. The current identification of numerous elements favouring a clear and consistent interpretation of the norm appears to be instrumental to its effective implementation.

Before specifically addressing the two draft General Comments, the Italian Ministry of Foreign Affairs and the Italian Red Cross recommend merging the two documents during the finalisation process, as they contain several areas of overlap (e.g. duplicate sections on intersectionality and on measures giving effect to the protection of persons with disabilities in situations of risk) or sometime do not pay enough and equal attention to all situations of risk covered by Article 11. Should such a merger not be feasible, including for reasons of word limits, the two General Comments should provide a clearer separation of their respective focus and objectives to avoid duplications and enhance coherence. In any event, both drafts would benefit from more granular analysis, concrete guidance for relevant stakeholders and better coordination. Finally, a suggestion is made to ensure greater consistency with both the CRPD Committee's practice (e.g. measures identified in its concluding observations and General Comments, definitions and references to basic terms such as ableism and intersectionality) and existing international standards and humanitarian guidance documents elaborated by relevant stakeholders (e.g. UNDRR Frameworks and terminology, IASC Guidelines, ICRC Commentaries). A series of specific comments and proposals is set out below for each draft General Comment.

Contribution to the Draft General Comment on Article 11 on the obligations of States Parties in situations of risk

Comment on paragraph 6:

This opening paragraph of the General Comment emphasises how Article 11 ‘obliges State parties to actively take steps—’. As rightly reiterated in the General Comment itself, Article 11 also imposes negative obligations on States (‘to respect’), an element which should similarly be emphasised.

Comment on paragraph 10:

The analysis of the notion of due diligence is rather limited, and the references mentioned are not very authoritative (see footnotes 12–13). The CRPD Committee could take advantage of the *International Law Commission, First Report on Due Diligence in International Law*, by Penelope Ridings, Special Rapporteur, A/CN.4/792, 4/3/2026.

Proposal to paragraph 22:

Suggest adding ‘international disaster law after ‘international refugee law’, as an additional area of international law to be considered, in line with paragraph 46 and General Comment No. 10 (para. 5).

Comment on paragraph 25:

The drafting of this paragraph is partly unclear. The text places considerable emphasis on the whole character of the CRPD as *lex specialis*, apparently implying that this body of law would consistently be capable of ‘superseding the general law’. It is difficult to maintain, as a general proposition, that the CRPD will always prevail over other bodies of international law, particularly IHL, since such assessments must be made on a case-by-case basis. This more nuanced approach is reflected elsewhere in the same paragraph, where it is correctly stated that the CRPD will ‘assist in the interpretation of other norms and principles in the international legal system’. Article 11 is a provision requiring a systemic interpretation of the CRPD in conjunction with other legal frameworks, as a way to facilitate bridges between different legal regimes without undermining them.

Comment on paragraphs 30–43 (a. Armed Conflict):

The paragraphs addressing armed conflicts and their relationship with IHL could be improved by providing more concrete guidance on the expected conduct for the protection of persons with disabilities to be carried out by parties to an armed conflict, as inferred from the practice of the same CRPD Committee and the ICRC, as well as from relevant documents in this field, including the Guidelines on ‘International Law and the Protection of Persons with Disabilities in the Context of Armed Conflicts’, elaborated by the Italian Defence General Staff (MoD) and the Italian Red Cross (ItRC) in 2026 ([Link](#)). In addition, some of the proposed legal solutions should be refined to better reflect the basic principles of IHL. Finally, the General Comment should also take into account other relevant IHL rules, particularly those relating to military occupation and the training of Armed Forces, tailored to address disability issues.

Comment on paragraph 30:

The references to the ‘obligation to respect’ and its application in situations of armed conflict do not take into account the fundamental principles of IHL. For instance, paragraph 30 appears to assume

absolute protection of persons with disabilities against direct attack, which is not consistent with IHL, as exemplified by cases in which they act as combatants or civilians directly participating in hostilities. The definition of armed conflict provided by footnote 35 should be put in line with common understandings of this term provided in the ICRC Commentaries to Common Articles 2 and 3 of the GCs, also taking into account art. 1(4) AP I and art. 1 AP II.

Comment on paragraph 35:

The paragraph states that ‘IHL generally obligates the evacuation of the civilian population when feasible and safe, but allows the evacuation in specific circumstances of groups at heightened risk, including persons with disabilities. This statement goes beyond the actual legal standard established by IHL, which adopts a due diligence standard (‘The Parties to the conflict shall, to the maximum extent feasible...’, art. 58 AP I; ‘to the extent feasible...’, Rule 24 of the ICRC Customary IHL Study).

In addition to the measures currently identified in the General Comment, further activities could be recommended to States to help them make their best efforts when conducting evacuation operations. Additional language could refer to measures provided in the [Italian MoD-ItRC Guidelines](#) such as: providing evacuation information in accessible formats, using accessible communication methods (e.g. sign language interpreters; Augmentative and Alternative Communication; "Easy to Read" language, including referrals to specialised professionals, and text alerts in digital format); identifying individuals and local actors capable of supporting persons with disabilities in adopting the most appropriate behaviour during an evacuation; ensuring the involvement of organisations representing persons with disabilities and local authorities, including for the collection of first-hand information, statistics, and data useful for planning and implementing evacuation operations; and facilitating dedicated training activities for Armed Forces personnel in this area.

Comment on paragraphs 36–38:

These paragraphs address the protection of persons with disabilities who are detained or displaced in connection with an armed conflict. It would be helpful to provide concrete guidance on the actions required of parties to an armed conflict in such circumstances. Measures that could be inferred from a joint interpretation of the Geneva Conventions and the CRPD include: the adoption of the sanitary measures necessary to ensure the cleanliness and healthiness of detention camps; the provision of sufficient water, food, and hygiene facilities to maintain good health; ensuring that detained persons with disabilities can live independently and participate fully in the life and activities of detention centres (e.g. by guaranteeing equal access to different areas and services, including restrooms, common areas, and libraries, through the provision of facilities such as ramps, handrails, accessible corridors, and wide doorways to enable persons with physical disabilities to move independently); medical examinations and due consideration of the health, including intellectual disabilities, and rehabilitation needs of persons with disabilities, including through specialised medical personnel or external health facilities. Displacement should be addressed further, given its different legal and operational characteristics.

Additionally, reference could be made to the possibility for parties to an armed conflict to include persons with disabilities among those to be repatriated before the end of hostilities or transferred to neutral States, particularly to facilitate rehabilitation and in cases detention is not adequate to their

status, as highlighted by the ICRC (see ICRC Commentary to GC IV, Article 110, para. 4322; ICRC Commentary to GC IV, Article 132, para. 5998).

A further clarification could be sought regarding footnote 46 to paragraph 37, which refers to Article 16 GC III as an example of a rule directly conflicting with core principles of the CRPD. It is suggested amending the footnote.

Comment on paragraph 38:

The draft General Comment broadly states that ‘IHL diverges from the Convention - by providing less protection, contradicting, or directly violating rights (...)’. This approach appears to undermine IHL and is only based on a single provision, namely the possibility that ‘isolation wards shall, if necessary, be set aside for cases of contagious or mental disease’ (Article 30 GC III, Article 91 GC IV).

It is correct to maintain that solitary confinement based exclusively on the perception that persons with psychosocial disabilities pose a danger to other prisoners would constitute an unfavourable distinction, thus prohibited under the principle of non-discrimination enshrined in both the Geneva Conventions and the CRPD (Articles 5 and 14). However, to practically override this normative conflict, the updated Commentaries to the GCs already provide concrete guidance on the proper approach to be adopted in such circumstances (e.g. allowing persons with psychosocial disabilities to benefit from separate accommodation solely as a reasonable and appropriate form of accommodation rather than as discriminatory isolation; psychotherapy, visits by and treatment from mental health specialists; transfer of such persons to specialised external facilities for treatment; repatriation to their own country or transfer to a neutral country. See ICRC Commentary to the GC IV, Article 91, paras. 4666–4673).

Comment on paragraph 40:

The draft General Comment broadly states, in relation to IHL and the provision of humanitarian assistance, that ‘(...) the IHL obligation remains underinclusive in its protection’. This far-reaching argument is not specifically analysed so as to identify effective shortcomings in IHL rules. Measures referred to in paragraph 40, concerning the provision of humanitarian assistance and of specific types of equipment and goods, are already clearly mandated under IHL, and no contradiction between IHL and the CRPD is thus present.

There is scope to provide more detailed guidance on the measures expected in this area (in line with what the ICRC has already suggested in its updated Commentary, and as similarly provided in the [Italian MoD-ItRC Guidelines](#)). This could include clarification that: humanitarian supplies also encompass medical equipment, including walking aids and other devices useful for the treatment and rehabilitation of persons with disabilities; humanitarian assistance activities should take into account the specific needs, barriers, and requirements that persons with disabilities may encounter in benefiting from such assistance, with regard to access to distribution points for essential goods, the distribution process itself, and the provision of assistance tailored to their needs in the planning and delivery of humanitarian aid; and that organisations representing persons with disabilities should be consulted and their expertise taken into account. A footnote could also refer to the 2019 IASC

Guidelines, *Inclusion of Persons with Disabilities in Humanitarian Action*, as a useful tool in this area.

Comments on and proposals to paragraphs 44–56 (b. Humanitarian Emergencies and Disasters):

The paragraphs addressing humanitarian emergencies and disasters could be substantially improved by providing more concrete guidance on the conduct expected of States in protecting persons with disabilities in such contexts, in order to ensure proper consistency between the General Comment and practice by the CRPD Committee (e.g. concluding observations). While partly reflected in the text (e.g. paragraph 48 on laws, regulations, and action plans which take into account persons with disabilities), this practice could be better taken into account and properly systematised. A series of recurring issues raised by the CRPD Committee and not addressed in the General Comment are thus addressed in the following sections.

Accessibility: Information, Infrastructure, and Early Warning

As highlighted in the CRPD Committee's General Comment No. 2 on Accessibility (2014), 'in situations of risk, natural disasters and armed conflict, the emergency services must be accessible to persons with disabilities, or their lives cannot be saved or their well-being protected', and 'accessibility must be incorporated as a priority in post-disaster reconstruction efforts'. This element has been reiterated in the CRPD Committee's concluding observations on the need to arrange accessible communication strategies on DRR and disaster risk management, as well as early warning systems, including through the use of Braille, sign language, Easy Read, and alternative modes and formats of communication. A reference should also be made to the supporting role of organisations of persons with disabilities in such situations. With regard to physical infrastructure, the CRPD Committee has consistently flagged the need to ensure that evacuation routes and emergency shelters are accessible. This section could also benefit from a reference to anticipatory action measures, such as the advance collection of dedicated transport and specific assistance needs of persons with disabilities ahead of preventive evacuations or the advance identification of accessible transport and shelter resources, along the lines of the [Operational Guidelines for Planning Civil Protection Interventions for People with Specific Needs](#) drafted by the Italian Department of Civil Protection in 2025.

Inclusion and Participation

In paragraph 49, in relation to consultations with persons with disabilities and their representative organisations on DRR and disaster risk management plans, reference could be made to General Comment No. 7 (2018) on participation (CRPD/C/GC/7, para. 78). The same reference could also be included in paragraph 71.

Post-Disaster Reconstruction

Post-disaster reconstruction has been addressed in General Comment No. 5 on independent living, maintaining how 'after situations of disaster, it is important not to rebuild barriers, as an element of implementing article 11 of the Convention', and adding that 'reconstruction processes must ensure full accessibility for the independent life in the community of persons with disabilities' (CRPD/C/GC/5). This principle, reflected in Priority 4 of the UN Sendai Framework as the principle

of “Build Back Better”, has been reiterated in numerous concluding observations requesting the inclusion of accessibility standards and universal design in reconstruction programmes, contributing to dismantling physical, infrastructural, and social barriers that existed before the disaster.

Disaggregated Data

The Committee has regularly emphasised in its concluding observations to States’ reports that meaningful compliance with Article 11 in disaster contexts is impossible without the collection of data disaggregated by disability, consistent with Article 31 of the CRPD, to be facilitated by the involvement of organisations of persons with disabilities. This aspect could be further expanded in this section.

Intersectionality

Intersectionality is generally addressed in paragraphs 14-19 of the draft General Comment, with references to various potentially relevant categories. The section on humanitarian emergencies and disasters (and specifically paragraphs 52 and 54) nonetheless includes further references to these issues, while referring only to certain personal characteristics (gender and age) or categories (migrants, refugees, and IDPs). More coherence could be ensured.

Finally, as regards the structure of this section, some improvements could be suggested. For instance, paragraph 50, in which the CRPD Committee takes note of a set of instruments that have informed its practice, could be moved to the initial paragraphs. Similarly, the analysis on deinstitutionalisation interrupts the narrative concerning DRR and disaster risk management. It also appears in multiple paragraphs, including paragraphs 47, 51, and 52, making it difficult to properly frame it as a distinct element of concern. It could be consolidated into a dedicated paragraph or subsection.

Comment on paragraph 57: Obligations of non-State actors

The legal framework relevant to non-State actors needs to be clarified. For example, references to the ‘responsibilities of non-State actors’, ‘customary international law and standards’, and ‘the principles and demands of the Universal Declaration of Human Rights’ require further clarification, as this section is not entirely coherent from a public international law perspective. In addition, no mention is made of applicable treaties in the territory where non-State actors operate, and the reference to jus cogens rules that would apply to them is not clear in its content. These aspects require further refinement.

Comments on paragraphs 58-59

The qualification of the customary character of Article 3 of the CRPD is not supported by substantial analysis. Some claims, such as the assertion that ‘the obligations to provide accessibility and reasonable accommodation are customary international law given the fact that they are necessary for the full enjoyment of jus cogens norms, like the right to life’, are circular and made without any clear link or coherence with the methods for the identification of customary international law as clarified by the International Law Commission in its Draft Conclusions on Identification of Customary International Law in 2018. It could also be noted that, in paragraph 59, the CRPD Committee shifts from the normative character of certain rules of the Convention to the scope of legal obligations of non-State actors. It does so by invoking a potential legal threshold, namely ‘to the extent they are

capable of taking the necessary actions’, but it remains unclear whether this threshold applies only in relation to the general obligations referred to in Article 4 of the CRPD or has a wider character.

Comments on paragraphs 60-64: Armed conflicts

It is unclear whether measures required in armed conflicts by States’ armed forces identified by the draft General Comment in paragraphs 30-43, would similarly apply to organised armed groups. Further clarity and legal analysis are needed in these paragraphs. As regards paragraph 60, attention should also be paid to the threshold for the application of Additional Protocol II to non-State actors.

Paragraph 61 relies only on a UNSC resolution despite consolidated doctrine on the issue. Further references should be added to the footnote.

Comments on paragraphs 65-68: Humanitarian emergencies and disasters

The need to clarify the relevant legal framework and the measures expected of non-State actors, in comparison with the analysis provided for States on such issues in paragraphs 44-56, is identified as a required improvement also for this section.

Proposal on paragraph 69: Recommendations

The formulation appears to overstate the interpretive role of the CRPD, echoing the concern already raised above in relation to paragraph 25. It is suggested to delete the words “update, and modify”.

Contribution to the Draft General Comment on Article 11 addressing the Impact of situations of risk

The general remarks above also apply to this draft General Comment, particularly the need to merge the texts or better distinguish their respective focus, legal analysis and suggested measures.

As the table of contents does not correspond to the paragraph numbering, the comments/proposals below follow the headings/paragraphs in the text.

Comments on paragraphs 5-16 (Key principles and standards of the Convention relating to persons with disabilities in situations of risk):

This section provides an overview of the key principles in this context, and offers general references to possible measures to be undertaken by States Parties. However, this approach does not allow an assessment of whether the envisaged measures are of the same nature across all situations of risk provided by Article 11 (armed conflicts, disasters, humanitarian emergencies). It would be expected that, as with different measures, the positive obligations associated with these key principles would have different content depending on the specific situation and the interrelationship with other areas of international law, such as IHL or International Disaster Law.

At the same time, coordination is needed between the envisaged measures and those identified in the parallel draft General Comment No. 9 (e.g., paragraphs 30-56). Although draft General Comment No. 10 states that it seeks to ‘provide authoritative guidance to States Parties on the implementation of their obligations (...) [and] address the measures necessary to implement the obligations’ (para. 1), the current text of this section does not provide a detailed analysis of the measures envisaged, and, as noted, it is highly questionable whether the type of measures indicated would be the same for all types of situations of risk. According to this, a series of comments/proposals on concrete measures to be recommended to States Parties in relation to armed conflicts and disasters already proposed above in relation to General Comment No. 9 (see previous pages) would be equally applicable to this General Comment No. 10.

Finally, these sections refer to States Parties without paying attention to measures envisaged by non-State actors, an issue addressed in draft General Comment No. 9 (e.g., paragraphs 57-68). It is therefore unclear whether, and to what extent, the key principles and standards identified in paragraphs 5 to 16 would similarly apply to those entities.

Comments on paragraphs 17-35 (III Intersectionality)

These paragraphs offer an in-depth analysis of intersectionality. While the content is commendable, adequate coordination with General Comment No. 9, which equally comprehensively addresses the issue in paragraphs 14-19, is needed to avoid duplication.

Comments on paragraphs 36-44 (Specific Standards of Protection)

This section provides an overview of selected civil, economic, and social rights that may be relevant in situations of risk, without however addressing all potential rights or providing a clarification on the choices made. At the same time, these sections appear to be a reiteration of the core human rights provisions of the CRPD, primarily by identifying measures of general application, on several occasions outside situations of risk. While there is nothing incorrect about these statements, their

general nature does not add significant value to the interpretation of Article 11, as the measures identified in these sections are unlikely to be tailored to situations of risk (see, for instance, paragraphs 36, 39, 40-42). Based on the current text, it would be difficult for States Parties to derive concrete guidance on measures to be taken in the event of armed conflict, disasters, and humanitarian emergencies.

Furthermore, the current text does not address potential differences in the measures to be taken in the various scenarios identified as risk situations under Article 11 (armed conflicts, disasters, and humanitarian emergencies). Given their diverse nature, it is unlikely that a “one-size-fits-all approach” would work effectively in such diverse scenarios, which may require specific measures, especially given the interaction of different relevant legal frameworks. The current text of draft General Comment No. 10, basically, does not seem to address the application of Article 11 in armed conflict scenarios, which should be the object of tailored analysis. Regarding the concrete measures that might be expected in this area, the comments above on General Comment No. 9 also apply here.

Comment on paragraphs 43-51 (IV. National Implementation Strategies)

While the General Comment is expected to comprehensively apply to ‘all situations of risk, including, but not limited to, armed conflicts, humanitarian emergencies and the occurrence of disasters’ (paragraph 1), in line with the wording of Article 11, these paragraphs provide an overview of potential measures on national implementation strategies clearly limited to situations of disasters and other humanitarian emergencies, without paying any attention to or adapting them to the context of armed conflicts. This latter scenario presents unique elements, also due to its relevance and the contextual application of IHL, which must be taken into account in the analysis provided by the CRPD. Furthermore, synergies should be identified with draft General Comment No. 9, which partially overlaps with this section, also in relation to the identification of potentially relevant measures.

Finally, as in other parts of this draft General Comment, these sections reiterate core human rights provisions in the CRPD, commonly by identifying generally applicable measures. While there is nothing incorrect in these statements, their general nature does not provide significant added value for the interpretation of Article 11, as the measures identified in these sections are unlikely to be designed for situations of risk (e.g., paragraph 49). Regarding the concrete measures that might be expected in this area, the observations made previously in relation to General Comment No. 9 also apply here.