

Protection of Persons in the Event of Disasters

Proposals for amendments to the draft articles prepared by the International Law Commission concerning the Protection of Persons in the Event of Disasters

Ireland

January 2026

In its Resolution 79/128 of 4 December 2024 (paragraph 4), the General Assembly of the United Nations decided

“to elaborate and conclude a legally binding instrument on the protection of persons in the event of disasters, without prejudice to the legal effects of any particular provisions contained therein, by the end of 2027 at the latest, at the dates and location and in accordance with the modalities to be determined by the General Assembly at its eightieth session.”

In this respect, the General Assembly in paragraph 6 invited

“Governments to submit to the Secretary-General, no later than 31 December 2025, proposals for amendments to the draft articles, with a view to preparing the consolidated text that will serve as the basis for the negotiations of the legally binding instrument as referred to in paragraph 4 above, and requests the Secretary-General to submit a compilation of all the proposals received to the working group.”

In this regard, and with apologies for the delayed transmission, Ireland has the honour to submit to the Secretary-General of the United Nations the following proposed amendments to the draft articles concerning the Protection of Persons in the Event of Disasters.

In the below text, proposed deletions are marked with a strikethrough (~~example~~) and proposed additions are marked in red text (example).

Preamble

Bearing in mind Article 13, paragraph 1 (a), of the Charter of the United Nations, which provides that the General Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification,

Considering the frequency and severity of natural and human-made disasters and their short-term and long-term damaging impact,

Fully aware of the essential needs of persons affected by disasters, and conscious that the rights of those persons must be respected in such circumstances,

Cognisant that the inherent dignity of the human person must be respected and protected in the event of disasters,

Emphasising that persons affected by disasters are entitled to respect for and protection of their human rights in accordance with international law,

Noting that response to disasters must take place in accordance with the principles of humanity, neutrality and impartiality, and on the basis of non-discrimination, while taking into account the needs of the particularly vulnerable,

Mindful of the fundamental value of solidarity in international relations and the importance of strengthening international cooperation in respect of all phases of a disaster,

Stressing the principle of the sovereignty of States and, consequently, reaffirming the primary role of the State affected by a disaster in providing disaster relief assistance,

Explanation:

Ireland expresses the view that the concepts of human dignity, human rights and humanitarian principles would be best addressed in the Preamble rather than as operative provisions in the draft articles. Accordingly, Ireland proposes adding the text above in red into the Preamble and deleting the corresponding draft articles.

Article 3

Use of Terms

(a) “disaster” means a calamitous event or series of events resulting in widespread loss of life, great human suffering and distress, mass displacement, or large-scale material or environmental damage, ~~thereby seriously disrupting the functioning of society;~~

Explanation:

Ireland has consistently made the point in statements before the Sixth Committee that the phrase ‘*disrupting the functioning of society*’ is ambiguous. The requirement of serious disruption to the functioning of society as a test for the applicability of the articles is legally unclear, and for example it is uncertain whether ‘society’ applies to an entire state only or whether a region or cross border area could also be considered a ‘society’ for the purposes of the articles.

Accordingly, Ireland proposes that this test should be deleted from the definition of ‘disaster’.

Article 4

Human dignity

~~The inherent dignity of the human person shall be respected and protected in the event of disasters.~~

Article 5

Human rights

~~Persons affected by disasters are entitled to the respect for and protection of their human rights in accordance with international law.~~

Article 6

Humanitarian principles

~~Response to disasters shall take place in accordance with the principles of humanity, neutrality and impartiality, and on the basis of non-discrimination, while taking into account the needs of the particularly vulnerable.~~

Explanation:

As noted above, Ireland expresses the view that the concepts of human dignity, human rights and humanitarian principles would be best addressed in the Preamble rather than as operative provisions in the draft articles. In particular with regard to Article 5, the inclusion of 'human rights' as an operative provision may inadvertently undermine the application of human rights law by calling into question its pre-existing applicability or qualifying its applicability.

Accordingly, Ireland proposes adding these concepts into the Preamble and deleting the corresponding draft articles. Ireland notes that the subsequent article numbers would need to be amended to take into account the proposed deletion of the above articles.

Article 7 4

Duty to cooperate

Article 8 5

Forms of cooperation in the response to disasters

Article 9 6

Reduction of the risk of disasters

Article 10 7

Role of the affected State

Article 11 8

Duty of the affected State to seek external assistance

Article 12 9

Offers of external assistance

Article 13 10

Consent of the affected State to external assistance

Article 14 11

Conditions on the provision of external assistance

Article 15 12

Facilitation of external assistance

Article 16 13

Protection of relief personnel, equipment and goods

Article 17 14

Termination of external assistance

Article 18 15

Relationship to other rules of international law

Explanation:

In light of Ireland's proposal to delete articles, 4 5 and 6, Ireland notes that the subsequent article numbers would need to be amended to take into account the proposed deletions.