

**The Issue:** Ireland has not fully agreed the United Nations Convention on the Rights of Persons with Disabilities (Convention)



This leaflet was made by the Inclusive Research Network (IRN) to explain this issue and urge people to lobby for Ireland to fully agree with the Convention.

The IRN is a group of people who work jointly to do research that matters to people with learning disabilities in Ireland.



Members and supporters of the IRN were pleased to hear that Ireland ratified the Convention in March 2018.



The Convention is a treaty that many countries around the world agreed on. It explains and protects the rights of people with disabilities in all parts of life.



There are 50 Articles in the Convention. Each Article explains a right that people with disabilities have. For example, Article 5 is about Equality, Article 24 is about Education and Article 27 is about Work.



But we heard that Ireland did not fully agree to some parts of the Convention. That confused us.



Dr. Eilionoir Flynn

So Ger Minogue, Orla McMahon and Rob Hopkins from the IRN spoke with law expert Dr Eilionoir Flynn to find out more about what parts of the Convention Ireland did not fully agree to. We then wrote up this paper to explain the issue to IRN members and supporters.



**Before we tell you more, there are a few legal words we thought it would help to explain.**



These words are:

- Ratify
- Reservation
- Declaration
- Substitute Decision Making
- Optional Protocol
- Congregated Setting



**Ratify** means that Ireland has formally joined the Convention, making it an official treaty with other countries.



A **Reservation** means that Ireland does not fully agree with the Convention and then says what it will do instead.



A **Declaration** is a formal statement that says Ireland mainly agrees with the Convention but gives its own view on what a rule means



**Substitute decision making** happens when choices can be made by others even when the person does not agree.



**Optional Protocol** is another agreement linked to the Convention that countries can choose to sign up to or not. This gives citizens the right to apply directly to the United Nations if they feel their rights in the Convention are not respected.



**Congregated Setting** is word used in Ireland that means a large home where 10 or more people live with support services.

	<p>There are 4 things Ireland did not fully agree to. We will go over each of these below. The first line of each one is in yellow.</p>
	<p><b>First of all, Ireland has a ‘Reservation’ about Article 27. This article is about people with disabilities having the same right to work as others.</b></p>
	<p>Ireland accepts most of this rule but does not agree that people with disabilities have “<i>equal rights to jobs in the Defence Forces, An Garda Síochána, the Prison Service, the Fire Brigade, the Irish Coastguard and the Ambulance Service.</i>”</p>
 <p>Dr. Eilionoir Flynn</p>	<p>Eilionoir explained that making a rule saying people with disability cannot apply for these jobs is not needed. These jobs look for people with certain abilities, skills and training which those with or without disability may or may not have. If we as people with a disability believe we have the skills we should have the right to apply even though we might not get the job. It is not discrimination when people who lack the skills needed to do a job are not hired. Ireland did not need this rule.</p>
	<p><b>The second item Ireland did not fully agree to is linked to Article 12. This is about the right of people with disabilities to be treated equally under the law.</b></p>
	<p>Article 12 explains that people with disabilities should be respected by the law like everyone else. They have the same rights as others to make their own decisions. They should have the support they need to make decisions.</p>



People with disabilities have equal rights to own property, control their money and borrow money like anyone else. It is not ok for people with disabilities to have their homes or money taken away because of their disability.



But Ireland had both a Declaration and Reservation about Article 12. The Irish government said, *“If Article 12 is said to mean no one can make decisions for someone else, Ireland reserves the right to allow this to happen in some situations where safeguards are in place.”*



Dr. Eilionoir Flynn

Eilionoir said Ireland’s new Capacity Law still keeps an option where decisions can be made by others even where the person disagrees. This is called *substitute decision making*. The Convention is against substitute decision making.



**The third item Ireland did not fully agree to was Article 14 which is about the right of people with disabilities to be free and safe.**

**Ireland had both a Declaration and a Reservation which means Ireland does not agree with some parts and has its own view on others.**



Article 14 says that people with disabilities have the right to be free and safe, the same as everyone else.

This includes being given:

- Details about your rights that you can understand.
- Help and support to get a fair hearing in a court.
- The right to have your legal case reviewed.

People should not be locked up just because they are disabled. People with disabilities should only be locked up if the law says so for other reasons which also apply to everyone in Ireland.



Ireland’s declaration on Article 14 says this:  
*"Ireland declares that the Convention allows for a person having to be taken into care or undergo treatment where this is seen as being necessary as a last resort, and where the treatment is subject to legal safeguards."*



This usually applies to mental health or criminal law cases but could also be used to justify people being housed in congregated settings against their wishes.  
 A barrier to your rights might happen where you are not told you have a right to choose where you live and who you live with.



Dr. Eilionoir Flynn

Eilionoir gave the example of a person being arrested. You have to be told your rights. This is often not the case for people who live in congregated settings or other types of housing where your rights are not explained. You have the right to be given choice over where you live and who you live with.



**The fourth item Ireland has decided not to ratify the Optional Protocol.**



Until recently the government said it would agree to sign the *Optional Protocol*. This would allow Irish citizens to appeal directly to the United Nations if they feel their rights are being denied.



When Ireland ratified the Convention they did not ratify the Optional Protocol. They said they would ratify it at a future date but did not say when.



Dr. Eilionoir Flynn

In two years’ time when its Ireland’s turn to present to the UN Committee about their disability rights record they will be asked to withdraw their reservations and sign the protocol. Eilionoir said we could put pressure on the government to fully agree at those times.



## What is Next?



### NOTE:

No country is 100% on board with the Convention.



The good side of Ireland looking for the Reservations and Declarations is that it shows our government is serious about the Convention.

Australia, Canada and the U.K. were other countries that did this.



Some other countries do not bother to make Reservations or Declarations and just sign up to the convention but don't change their laws or put pressure on formal groups to change how they work.



That said, we did ratify after most other countries so we should have learned from other countries instead of repeating what they did.

We could have found ways of making our laws agree more with the Convention.

We could have looked for advice from law experts in Ireland before not fully agreeing (ratifying) the Convention.



The IRN will keep up the challenge to the government to fully ratify the Convention. We want Ireland to lead by example.



To do this the IRN will:

1. bring this leaflet to events
2. send it out to groups and services we are linked with
3. include the leaflet in talks we do across Ireland.