

## **Ratification des Protocoles additionnels aux Conventions de Genève du 12 août 1949 par l'Irlande**

**L'**IRLANDE a ratifié, le 19 mai 1999, les Protocoles additionnels aux Conventions de Genève du 12 août 1949 relatifs à la protection des victimes des conflits armés internationaux (Protocole I) et non internationaux (Protocole II), adoptés à Genève le 8 juin 1977. Par ailleurs, l'Irlande a reconnu la compétence de la Commission internationale d'établissement des faits, conformément à l'article 90 du Protocole I.

Les Protocoles entreront en vigueur pour l'Irlande le 19 novembre 1999.

L'Irlande est le 154<sup>e</sup> État partie au Protocole I et le 146<sup>e</sup> au Protocole II.

Cette ratification est accompagnée de plusieurs déclarations et réserves (voir texte original anglais ci-dessous).

## **Ratification of the Protocols Additional to the Geneva Conventions of 12 August 1949 by Ireland**

**O**N 19 May 1999, Ireland ratified the Protocols Additional to the Geneva Conventions of 12 August 1949, relating to the Protection of Victims of International Armed Conflicts (Protocol I) and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted in Geneva on 8 June 1977. Ireland also made a declaration accepting the competence of the International Fact-Finding Commission, in accordance with Article 90 of Protocol I.

The Protocols will come into force for Ireland on 19 November 1999.

This ratification brings to 154 the number of States party to Protocol I and to 146 those party to Protocol II.

The instrument of ratification is accompanied by various declarations and reservations, the text of which is given below:

## Declarations and Reservations in relation to Additional Protocol I

1. Ireland, in ratifying Protocol I Additional to the Geneva Conventions of 1949 adopted at Geneva on 8 June 1977, declares its belief that the provisions of this Protocol represent the minimum level of legal and actual protection bound to be afforded to persons and civilian and cultural objects in armed conflicts.

### 2. **Article 11**

For the purposes of investigating any breach of the Geneva Conventions of 1949 or of the Protocols Additional to the Geneva Conventions of 1949 adopted at Geneva on 8 June 1977, Ireland reserves the right to take samples of blood, tissue, saliva or other bodily fluids for DNA comparisons from a person who is detained, interned or otherwise deprived of liberty as a result of a situation referred to in Article 1, in accordance with Irish law and normal Irish medical practice, standards and ethics.

### 3. **Article 11, paragraph 2(c)**

Ireland declares that nothing in Article 11, paragraph 2(c) shall prohibit the donation of tissue, bone marrow or of an organ from a person who is detained, interned or otherwise deprived of liberty as a result of a situation referred to in Article 2 to a close relative who requires a donation of tissue, bone marrow or an organ from such a person for medical reasons, so long as the removal of tissue, bone marrow or organs for transplantation is in accordance with Irish law and the operation is carried out in accordance with normal Irish medical practice, standards and ethics.

### 4. **Article 28, paragraph 2**

Given the practical need to make use of non-dedicated aircraft for medical evacuation purposes, Ireland does not interpret this paragraph as precluding the presence on board of communication equipment and encryption materials or the use thereof solely to facilitate navigation, identification or communication in support of medical transportation as defined in Article 8(f).

**5. Article 35**

Ireland accepts, as stated in Article 35, paragraph 1, that the right of Parties to the conflict to choose methods or means of warfare is not unlimited. In view of the potentially destructive effect of nuclear weapons, Ireland declares that nuclear weapons, even if not directly governed by Additional Protocol I, remain subject to existing rules of international law as confirmed in 1996 by the International Court of Justice in its Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons.

**6. Articles 41, 56, 57, 58, 78 and 86**

It is the understanding of Ireland that in relation to Article 41, 56, 57, 58, 78 and 86 the word “feasible” means that which is practicable or practically possible, taking into account all circumstances at the time, including humanitarian and military considerations.

**7. Article 44**

It is the understanding of Ireland that:

- a. The situation described in the second sentence of paragraph 3 of Article 44 can exist only in occupied territory or in armed conflicts covered by paragraph 4 of Article 1; and
- b. The word “deployment” in paragraph 3 of Article 44 includes any movement towards a place from which an attack is to be launched.

**8. Article 47**

It is the understanding of Ireland that Article 47 in no way prejudices the application of Articles 45(3) and 75 of Protocol I to mercenaries as defined in this Article.

**9. Articles 51 to 58**

In relation to Articles 51 to 58 inclusive, it is the understanding of Ireland that military commanders and others responsible for planning, deciding upon, or executing attacks necessarily have to reach decisions on the basis of their assessment of the information from all sources which is reasonably available to them at the relevant time.

**10. Article 53**

It is the understanding of Ireland in relation to the protection of cultural objects in Article 53 that if the objects protected by this Article are unlawfully used for military purposes they will there-by lose protection from attacks directed against such unlawful military use.

**11. Article 55**

In ensuring that care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage and taking account of the prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment thereby prejudicing the health or survival of the population, Ireland declares that nuclear weapons, even if not directly governed by Additional Protocol I, remain subject to existing rules of international law as confirmed in 1996 by the International Court of Justice in its Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons. Ireland will interpret and apply this Article in a way which leads to the best possible protection for the civilian population.

**12. Article 62**

It is the understanding of Ireland that nothing in Article 62 will prevent Ireland from using assigned civil defence personnel or volunteer civil defence workers in Ireland in accordance with nationally established priorities regardless of the military situation.

**13. Article 75, paragraph 4(e)**

Article 75 will be applied in Ireland insofar as paragraph 4(e) is not incompatible with the power enabling a judge, in exceptional circumstances, to order the removal of an accused from the court who causes a disturbance at the trial.

**14. Article 90**

Ireland declares that it recognises ipso facto and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the International

Fact-Finding Commission to enquire into allegations by such other Party, as authorised by Article 90 of Protocol I Additional to the Geneva Conventions of 1949. The exercise by the Commission of powers and functions in Ireland shall be in accordance with Irish law.

**15. Article 96, paragraph 3**

It is the understanding of Ireland that the making of a unilateral declaration does not in itself validate the credentials of the persons making such a declaration and that States are entitled to satisfy themselves as to whether in fact the makers of such a declaration constitute an authority referred to in Article 96. In this respect, the fact that such authority has or has not been recognised as such by the UN or an appropriate regional intergovernmental organisation is relevant.

**Additional Protocol II**

1. Ireland, in ratifying Protocol II Additional to the Geneva Conventions of 1949 adopted at Geneva on 8 June 1977, declares its belief that the provisions of this Protocol represent the minimum level of legal and actual protection bound to be afforded to persons and civilian and cultural objects in armed conflicts.

**2. Article 6, paragraph 2(e)**

Article 6 will be applied in Ireland insofar as paragraph 2(e) is not incompatible with the power enabling a judge, in exceptional circumstances, to order the removal of an accused from the court who causes a disturbance at the trial.