

# **Ireland**

## **Mid-term Implementation Assessment**



*Promoting and strengthening  
the Universal Periodic Review*  
<http://www.upr-info.org>

## Introduction

### 1. Purpose of the follow-up programme

*The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.*

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and one half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created a follow-up process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on and to implement their commitments. States should implement the recommendations that they have accepted and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by *UPR Info* to collect data and to calculate the index is described at the end of this document.

Geneva, 22 July 2014

## Follow-up Outcomes

### 1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/ireland>

We invite the reader to consult this webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

57 stakeholders' reports were submitted for the UPR. 75 NGOs were contacted. 2 UN agencies were contacted. The Permanent Mission to the UN was contacted. The National Human Rights Institution (NHRI) was contacted as well.

21 NGOs responded to our enquiry. None of the UN agencies responded. The State under Review and the NHRI did respond to our enquiry.

The following stakeholders took part in the report:

1. **State** of Ireland
2. **NHRI:** (1) Irish Human Rights Commission (IHRC)
3. **NGOs:** (1) Action From Ireland (AFRI) (2) Atheist Ireland (AI) (3) Centre for Disability Law and Policy (CDLP) (4) Challenging Ethnic Minority Health Inequalities (CAIRDE) (5) Children's Rights Alliance (CRA) (6) Cork Social Housing Forum (CSHF) (7) Education Together (ET) (8) Gay Lesbian Equality Network (GLEN) (9) Global Initiative to End Corporal Punishment Against Children (GIEACPC) (10) Immigrant Council of Ireland (ICI) (11) Irish Congress of Trade Unions (ICTU) (12) Irish Council for Civil Liberties (ICCL) (13) Irish Family Planning Association (IFPA) (14) Irish Penal Reform Trust (IPRT) (15) Irish Refugee Council (IRC) (16) Irish Society for the Prevention of Cruelty to Children (ISPCC) (17) Justice for Magdalenes (JFM) (18) Pavee Point Traveller and Roma Centre (PP) (19) Reporters sans frontières (RSF) (20) Table Observers (TO) (21) The Irish Immigrant Support Centre (NASC)

*IRI:* 78 recommendations are not implemented, 43 recommendations are partially implemented, and 54 recommendations are fully implemented. No answer was received for 5 out of 181 recommendations and voluntary pledges (full list of unanswered recommendations is available at the end of this document).

## 2. Index

Hereby the issues that the MIA covers:

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67	Algeria	Detention conditions	fully impl.	page 74
80	Algeria	Rights of the Child, Women's rights	partially impl.	page 92
93	Algeria	Technical assistance	partially impl.	page 123
151	Algeria	International instruments, Labour, Migrants	not impl.	page 69
4	Argentina	Disabilities, International instruments	fully impl.	page 46
26	Argentina	Enforced disappearances, International instruments	fully impl.	page 50
53	Argentina	Migrants, Minorities, Women's rights	partially impl.	page 26
82	Argentina	Women's rights	partially impl.	page 95
148	Argentina	International instruments, Labour, Migrants	not impl.	page 68
40	Australia	Rights of the Child	fully impl.	page 86
44	Australia	General	fully impl.	page 122
69	Australia	Detention conditions	fully impl.	page 75
6	Austria	Disabilities, International instruments	not impl.	page 46
72	Austria	Detention conditions	fully impl.	page 76
73	Austria	Detention conditions	fully impl.	page 77
74	Austria	Detention conditions	partially impl.	page 78
94	Austria	Disabilities, International instruments	not impl.	page 59
119	Austria	Women's rights	partially impl.	page 103
133	Austria	Women's rights	not impl.	page 66
146	Austria	Civil society, UPR process	partially impl.	page 68
59	Azerbaijan	Racial discrimination	partially impl.	page 13
125	Azerbaijan	Racial discrimination	partially impl.	page 20
126	Azerbaijan	Minorities, Racial discrimination	partially impl.	page 41
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16	Brazil	Detention conditions, International instruments, Torture and other CID treatment	fully impl.	page 48
88	Brazil	Right to health	partially impl.	page 16
97	Brazil	CP rights - general, International instruments	not impl.	page 60
121	Brazil	National plan of action, Racial discrimination	not impl.	page 124
131	Brazil	Asylum-seekers - refugees, Migrants	partially impl.	page 43
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7	Canada	Disabilities, International instruments	not impl.	page 46
2	Chile	Disabilities, International instruments	fully impl.	page 46
17	Chile	Detention conditions, International instruments, Torture and other CID treatment	fully impl.	page 48
31	Chile	International instruments, Rights of the Child	fully impl.	page 52
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96	Costa Rica	Disabilities, International instruments	not impl.	page 59
127	Czech Republic	Minorities, Racial discrimination	not impl.	page 42
168	Czech Republic	Asylum-seekers - refugees, Labour	fully impl.	page 45
75	Denmark	Detention conditions	fully impl.	page 80
159	Denmark	Women's rights	not impl.	page 112
3	Ecuador	Disabilities, International instruments	fully impl.	page 46
27	Ecuador	Enforced disappearances, International instruments	fully impl.	page 50
32	Ecuador	International instruments, Rights of the Child	fully impl.	page 52
47	Ecuador	Disabilities, Rights of the Child	partially impl.	page 24
99	Ecuador	ESC rights - general, International instruments	partially impl.	page 60
109	Ecuador	Freedom of religion and belief, Migrants, Racial discrimination	partially impl.	page 40
145	Ecuador	Minorities	not impl.	page 44
149	Ecuador	International instruments, Labour, Migrants	not impl.	page 69
39	Egypt	General	fully impl.	page 120
144	Egypt	Freedom of religion and belief, Racial discrimination, Right to education	not impl.	page 11
152	Egypt	International instruments, Labour, Migrants	not impl.	page 69
15	Estonia	Detention conditions, International instruments, Torture and other CID treatment	not impl.	page 48
13	France	Disabilities, International instruments	not impl.	page 47
18	France	Detention conditions, International instruments, Torture and other CID treatment	not impl.	page 48
29	France	Enforced disappearances, International instruments	not impl.	page 50
36	France	International instruments, Rights of the Child	not impl.	page 52
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113	France	Freedom of opinion and expression	not impl.	page 9
38	Ghana	NHRI	fully impl.	page 119
90	Ghana	Women's rights	fully impl.	page 98
111	Ghana	Racial discrimination	partially impl.	page 18
8	Greece	Disabilities, International instruments	not impl.	page 46
19	Greece	Detention conditions, International instruments, Torture and other CID treatment	not impl.	page 48
166	Honduras	Migrants, Racial discrimination	not impl.	page 44
14	Hungary	Disabilities, International instruments	not impl.	page 47
71	Hungary	Detention conditions, International instruments	fully impl.	page 58
101	Hungary	International instruments, Right to education	not impl.	page 62
1	Indonesia	Disabilities, International instruments	not impl.	page 46
25	Indonesia	Enforced disappearances, International instruments	not impl.	page 50
42	Indonesia	International instruments, Rights of the Child	not impl.	page 55
58	Indonesia	Minorities	fully impl.	page 30
79	Indonesia	Detention conditions	partially impl.	page 82
118	Indonesia	National plan of action	not impl.	page 124
9	Iran	Disabilities, International instruments	not impl.	page 46
54	Iran	Freedom of religion and belief, Minorities, Racial discrimination	fully impl.	page 27



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56	Iran	Freedom of religion and belief, Racial discrimination	fully impl.	page 28
100	Iran	CP rights - general, ESC rights - general, International instruments, Racial discrimination	not impl.	page 61
102	Iran	International instruments, Right to education	not impl.	page 62
153	Iran	International instruments, Labour, Migrants	not impl.	page 69
163	Iran	Migrants, Racial discrimination	not impl.	page 44
10	Iraq	Disabilities, International instruments	not impl.	page 47
24	Iraq	Enforced disappearances, International instruments	partially impl.	page 50
49	Iraq	ESC rights - general	fully impl.	page 12
104	Iraq	Racial discrimination, Treaty bodies	not impl.	page 63
169	Ireland	Justice, Rights of the Child	fully impl.	page 116
170	Ireland	International instruments, Rights of the Child	not impl.	page 71
171	Ireland	Disabilities, International instruments	fully impl.	page 71
172	Ireland	ESC rights - general, International instruments	not impl.	page 73
174	Ireland	Right to health	partially impl.	page 22
175	Ireland	Asylum-seekers - refugees	fully impl.	page 126
176	Ireland	Asylum-seekers - refugees	not impl.	page 45
177	Ireland	Detention conditions, International instruments, Torture and other CID treatment	not impl.	page 73
178	Ireland	Rights of the Child, Torture and other CID treatment, Women's rights	fully impl.	page 118
180	Ireland	Rights of the Child, Women's rights	fully impl.	page 118
181	Ireland	UPR process	fully impl.	page 73
85	Latvia	Trafficking	not impl.	page 97
139	Latvia	Other	not impl.	page 125
57	Malaysia	Freedom of religion and belief, Racial discrimination	partially impl.	page 30
84	Malaysia	Rights of the Child, Women's rights	fully impl.	page 96
122	Malaysia	National plan of action, Racial discrimination	not impl.	page 125
123	Malaysia	Right to education, Rights of the Child	not impl.	page 19
89	Mexico	Disabilities, Migrants, Women's rights	fully impl.	page 98
92	Mexico	Asylum-seekers - refugees, Justice	partially impl.	page 38
120	Mexico	Human rights education and training, Migrants, Racial discrimination, Treaty bodies	partially impl.	page 65
154	Mexico	International instruments, Labour, Migrants	not impl.	page 69
37	Moldova	NHRI	fully impl.	page 119
45	Moldova	Human rights education and training	fully impl.	page 11
52	Moldova	Women's rights	fully impl.	page 91
81	Moldova	Women's rights	partially impl.	page 94
66	Netherlands	Other	partially impl.	page 123
107	Netherlands	Asylum-seekers - refugees, Detention conditions, NHRI, Rights of the Child	fully impl.	page 100
162	Netherlands	Women's rights	not impl.	page 115
68	Norway	Detention conditions, International instruments	fully impl.	page 55
142	Norway	Labour	not impl.	page 20
157	Norway	International instruments, Women's rights	not impl.	page 70
64	Pakistan	ESC rights - general, Minorities	not impl.	page 35

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124	Pakistan	Racial discrimination	partially impl.	page 19
134	Pakistan	Rights of the Child, Women's rights	partially impl.	page 104
5	Peru	Disabilities, International instruments	fully impl.	page 46
23	Peru	Detention conditions, International instruments, Torture and other CID treatment	fully impl.	page 49
78	Peru	Detention conditions	fully impl.	page 81
108	Peru	Disabilities, Minorities, Rights of the Child, Women's rights	partially impl.	page 40
150	Peru	International instruments, Labour, Migrants	not impl.	page 69
33	Portugal	International instruments, Rights of the Child	not impl.	page 52
41	Portugal	International instruments, Rights of the Child	not impl.	page 54
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63	Slovakia	Minorities, Right to education, Right to health, Right to housing	not impl.	page 35
129	Slovakia	Minorities	not impl.	page 43
20	Slovenia	Detention conditions, International instruments, Torture and other CID treatment	not impl.	page 48
34	Slovenia	International instruments, Rights of the Child	not impl.	page 52
160	Slovenia	Right to health, Women's rights	not impl.	page 112
11	Spain	Disabilities, International instruments	not impl.	page 47
28	Spain	Enforced disappearances, International instruments	not impl.	page 50
77	Spain	Detention conditions	partially impl.	page 81
95	Spain	Disabilities, International instruments	not impl.	page 59
112	Spain	International instruments, Right to health	partially impl.	page 65
140	Spain	Sexual Orientation and Gender Identity	partially impl.	page 83
161	Spain	Right to health, Women's rights	partially impl.	page 114
51	Sri Lanka	Women's rights	fully impl.	page 89
65	Sri Lanka	Labour, Migrants, Minorities	fully impl.	page 36
87	Sri Lanka	Right to education, Right to health	partially impl.	page 15
62	Sweden	Minorities	not impl.	page 33
76	Sweden	Detention conditions, International instruments	partially impl.	page 58
106	Sweden	International instruments, Rights of the Child	fully impl.	page 64
22	Switzerland	Detention conditions, International instruments, Torture and other CID treatment	not impl.	page 49
83	Switzerland	Treaty bodies, Women's rights	not impl.	page 58
132	Switzerland	Rights of the Child, Women's rights	fully impl.	page 104
141	Switzerland	Sexual Orientation and Gender Identity	not impl.	page 85
135	Thailand	Detention conditions, Women's rights	fully impl.	page 67
136	Thailand	Rights of the Child, Women's rights	partially impl.	page 105
35	Turkey	International instruments, Rights of the Child	not impl.	page 52
43	Turkey	General	partially impl.	page 121
86	Turkey	Freedom of religion and belief, Minorities	partially impl.	page 9
128	Turkey	Migrants, Racial discrimination	partially impl.	page 42
143	Turkey	Freedom of religion and belief, Right to education	not impl.	page 10
147	Turkey	International instruments, Labour, Migrants	not impl.	page 68
21	United Kingdom	Detention conditions, International instruments, Torture and other CID treatment	not impl.	page 48

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158	United Kingdom	Women's rights	fully impl.	page 109
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115	Uruguay	Human rights education and training, Justice, Racial discrimination	partially impl.	page 82
117	Uruguay	Other	not impl.	page 41
137	Uruguay	Human rights education and training, Rights of the Child, Torture and other CID treatment	not impl.	page 107
138	Uruguay	Rights of the Child, Torture and other CID treatment, Treaty bodies	partially impl.	page 109
103	Uzbekistan	International instruments, Migrants, Racial discrimination, Right to education	not impl.	page 62
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167	Uzbekistan	Labour, Migrants, Women's rights	not impl.	page 116



### 3. Feedback on recommendations

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## CP Rights

Recommendation n°86: *Support its Muslim citizens in enabling them to practise their religion* (Recommended by Turkey)

IRI: *partially implemented*

State of Ireland response:

See comment under [recommendation n°54].

Article 44 of the Constitution specifically protects religious freedom.

The Irish Immigrant Support Centre (NASC) response:

No significant action being taken.

Recommendation n°113: *Withdraw the provisions which entered into force on 1 January 2010 making blasphemy punishable as they may constitute an excessive limitation to the freedom of expression* (Recommended by France)

IRI: *not implemented*

State of Ireland response:

Ireland established a Constitutional Convention in 2012 to consider a number of matters, including the removal of the offence of blasphemy from the Constitution. The Convention considered this matter at its meeting in November 2013. A majority of members voted to recommend in its report that the reference to blasphemy in the Constitution be replaced with a more general provision regarding incitement to religious hatred. This recommendation will be considered by Government as soon as the Convention's report is finalised and formally presented to the Oireachtas.

Atheist Ireland (AI) response:

The Irish Constitutional Convention has reported to the Government on the issue of blasphemy, which the Convention discussed last November. The report recommends that the offence of blasphemy is removed and replaced with a new general provision to include a prohibition on incitement to religious hatred. The report also recommends creating a new set of detailed legislative provisions to include incitement to hatred on a statutory footing. However, the recommendations in the report do not accurately reflect the report's own description of the proceedings of the Convention.

NASC response:

No action taken; Constitutional Convention recommended change.

Reporters sans frontières (RSF) response:

Bien qu'elle ne soit que très peu utilisée par les organes judiciaires, la loi irlandaise sur le blasphème demeure en vigueur, et continue donc de poser certaines menaces permanentes à la liberté d'expression.

Irish Council for Civil Liberties (ICCL) response:

See Replies to the List of Issues regarding Ireland's Fourth Periodic Report to the Human Rights Committee (UN Doc CCPR/C/IRL/Q/4/Add.1) at para 1.58.

Recommendation n°143: *Encourage diversity and tolerance of other faiths and beliefs in the education system by monitoring incidents of discrimination on the basis of belief* (Recommended by Turkey)

IRI: *not implemented*

State of Ireland response:

There is a school complaints procedure in place and the Department of Education and Skills provides guidance to this procedure on its website. It is unlawful to discriminate against a child on the basis of religious belief. Where a parent believes such discrimination has taken place, the school complaints procedure should be followed in the first instance. If the parents are not satisfied with the response, it is open to them to raise the matter with the Equality Authority.

AI response:

To date there has been no movement by the state to monitor incidents of discrimination on the basis of faith in the education system. It should be noted that Ireland does not intend to eliminate religious discrimination in access to education.

Education Together (ET) response:

Given recent qualitative research indicating that children from minority belief backgrounds can experience exclusion and discrimination in denominational schools, it is important that practices relating to religious instruction and worship in state-funded schools be examined further.

NASC response:

No national monitoring of discrimination taking place

ICCL response:

See Replies to the List of Issues regarding Ireland's Fourth Periodic Report to the Human Rights Committee, CCPR/C/IRL/Q/4/Add.1) para 152 - 157.

Recommendation n°144: *Eliminate religious discrimination in access to education* (Recommended by *Egypt*)

IRI: *not implemented*

AI response:

Ireland does not intend to eliminate religious discrimination in access to education.

ET response:

The percentage of primary schools managed by religious denominations remains above 95%. In 5 entire counties there is no alternative to denominational provision. Sufficient multi-denominational schools should be provided so that every family in Ireland can access this option.

ICCL response:

See Replies to the List of Issues regarding Ireland's Fourth Periodic Report to the Human Rights Committee, CCPR/C/IRL/Q/4/Add.1) para 152 - 157.

## ESC Rights

Recommendation n°45: *Continue to provide support for human rights education and training domestically in order to enhance awareness and respect for human rights* (Recommended by *Moldova*)

IRI: *fully implemented*

State of Ireland response:

Ongoing

The Human Rights Commission in Ireland provides tailored training to the Civil and Public Service in the field of human rights. Training has been provided to members of the police force, prison service, local authority officials and civil servants. This training is ongoing. In December 2013 the Commission hosted a conference in Dublin to highlight best practice in human rights education and training for civil and public servants. The event was organised in cooperation with the Office of the UN High Commissioner for Human Rights.

ET response:

Funding should be directed towards raising awareness, understanding and respect for human rights in primary, secondary, third, and fourth-level education. In particular targeted interventions are required in order to promote understanding of and respect for human rights through teacher education.

Irish Human Rights Commission response:

The IHRC continues to provide free human rights education and training to limited groups of civil and public civil servants and there remains a pressing need for human rights education and training for Civil Servants to be more fully resourced by the State.

NASC response:

Significant concerns here - some training from HRC but stifled by lack of resources.

Recommendation n°49: *Take the measures required to respect economic, social and cultural rights* (Recommended by Iraq)

IRI: *fully implemented*

State of Ireland response:

Ireland is a party to the International Covenant on Economic, Social and Cultural Rights, having signed the Covenant in 1973 and ratified it in 1989. Following an announcement by the Minister for Foreign Affairs and Trade and the Minister for Justice, Equality and Defence, Ireland signed the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights in March 2012.

Detailed information on the legislative and policy measures in place to respect and protect economic, social and cultural rights is available in Ireland's Third Periodic Report to the UN Committee on Economic, Social and Cultural Rights (E/C.12/IRL/3) on the website of the UN High Commissioner for Human Rights.

NASC response:

Significant concerns here, no significant actions being taken; Constitutional Convention made recommendation to include amendment on ESC.

ICCL response:

Ireland submitted its Third Periodic Report under the International Covenant on Economic, Social and Cultural Rights in May 2012. The Committee on Economic, Social and Cultural Rights will issue the List of Issues for Ireland with respect to the Third Periodic Examination at its session in December

2014. Ireland is due to be examined by the Committee in 2015. Ireland's National Report is available [here](#). An Irish NGO, the Free Legal Advice Centres (FLAC), is conducting consultation work with civil society groups in order to produce an alternative "shadow" report for the Committee's consideration. More information can be found [here](#).

Recommendation n°59: *Ensure that any persons involved in racial discrimination acts are investigated and prosecuted, and, if found guilty of such incidents, punished with appropriate penalties* (Recommended by Azerbaijan)

IRI: *partially implemented*

State of Ireland response:

See comments in response to recommendations [n°54] and [n°121].

ICI response:

Legislative reform to allow the judiciary to consider racist motivation an aggravating factor when determining appropriate sentencing has not been introduced.

NASC response:

Not enough action being taken - no reforms of existing legislation or new hate crime legislation and/or sentencing introduced.

ICCL response:

Statistics collected and produced by the Central Statistics Office (CSO) and external agencies such as the EU Fundamental Rights Agency point to a significant level of racially-motivated hate crime in Ireland (for example, EU Agency for Fundamental Rights – Minorities and Discrimination Survey (MIDIS), 2009 at p 59. available at [this [website](#)]). The lack of effective and systematic mechanisms to report/record data in relation to racially motivated incidents / prosecutions undermines efforts to determine the extent to which racist and related hate crime continues to be a problem in Ireland. While the FRA considers Ireland's overall racist incident monitoring mechanism to be 'good', anecdotal evidence from statutory agencies (including the 2007 [Garda Síochána Public Attitudes Survey](#)), academic institutions, NGOs and community representative organisations suggest racially motivated crime is likely to be significantly under reported. Irish criminal law does not make express provision for racism as an aggravating circumstance at sentencing, except through the exercise of judicial discretion. Therefore, offences where racism may constitute a motivating factor continue to be dealt with in a generic fashion under the general criminal law, for example under a range of existing legislation including the Criminal Justice (Public Order) Act 1994, Non Fatal Offences against the

Person Act 1997 and the Criminal Damage Act 1991. A review of Ireland's Incitement to Hatred Act 1989 (the "1989 Act") was published in 2008, and recommended against the introduction of racially motivated offences but advocated that racism should be taken into account as an aggravating factor at sentencing. This Review also found that there was a lack of a clear definition of 'hatred' under Irish law to assist prosecutors or judges. Furthermore, it concluded that, while the Act punishes incitement offences, it is ineffective for specific hate crimes and that judges may consider aggravating factors when sentencing. However, they are not compelled by statute or binding precedent of the Courts to do so.

*Recommendation n°60: Maintain the strategies of holistic health and provisions of health care, with special emphasis on vulnerable groups, despite the budget cuts due to the economic crisis (Recommended by Chile)*

IRI: *partially implemented*

#### State of Ireland response:

Due to the global financial crisis, Ireland, like other EU Member States, has had to significantly reduce public spending. The challenge is to reduce the cost of health services, not the quality. Ireland is in the midst of a major programme of reform to address that challenge.

Ireland's health reform programme is set out in the report Future Health - A Strategic Framework for Reform of the Health Service 2012 - 2016. The Programme is built on four independent pillars: (1) Health and Wellbeing; (2) Service Reform - to deliver a less hospital-focussed model of care; (3) Structural Reform - to implement the steps required to shift the model of public healthcare from a tax funded system to a combination of universal health Insurance and tax funding, and; (4) Financial Reform - to ensure the financing system is based on incentives that are aligned with fairness and efficiency, while reducing costs, improving control and delivering better quality.

Healthy Ireland is the national framework for action to improve the health and wellbeing of our country over the coming generation. The vision embodied in Healthy Ireland - a framework for improved health and wellbeing is to create a healthy Ireland where everyone can enjoy physical and mental health wellbeing to their full potential, where wellbeing is valued and supported at every level of society and is everyone's responsibility. Goal 2 of the framework deals with reducing health inequalities, with a broad focus on addressing the wider social determinants of health to create economic, social, cultural, and physical environments that foster healthy living, whilst also addressing interventions to target particular health risks.



NASC response:

Significant concerns here.

Pavee Point Traveller and Roma Centre (PP) response:

The All Ireland Traveller Health Study was published in Sept. 2010. It documented huge health inequalities between Travellers and the national population. Mortality rates 3.5 times national average for Traveller men, women and children. Low life expectancy (15 years less for Traveller men; 11 years for Traveller women; Suicide rates 6 times national average). Despite these findings no action plan or Traveller Health Strategy has been developed. The National Traveller Health Advisory Committee has not been allowed meet since October 2012 and the Dept of Health says it is adopting a 'mainstreaming approach' in the Health and Well Being unit within Dept. Traveller health is a grave human rights concern that needs urgent action.

*Recommendation n°87: Make available adequate budgetary allocations, despite financial constraints, for the continued provision and improvement of education and health services which are essential to protect the rights of the poorest and the most vulnerable members of society (Recommended by Sri Lanka)*

IRI: *partially implemented*

State of Ireland response:

A key focus of national education policy is to prioritise investment in favour of those most at risk and to optimise access, participation and outcomes at every level of the system for disadvantaged and marginalised groups. DEIS (Delivering Equality of Opportunity in Schools), the Action Plan for Educational Inclusion, is the policy instrument to address educational disadvantage and focuses on addressing and prioritising the educational needs of children and young people from disadvantaged communities, from pre-school through second-level education. DEIS resources continue to be protected, with no overall changes to DEIS-related staffing levels or DEIS funding despite financial constraints.

ET response:

Ireland's children should not be forced to pay for the country's current financial troubles. Cuts to the education budget are short-sighted and will have devastating consequences for Irish society. Budgetary allocations for the continued provision and improvement of education services are essential to protect the rights of vulnerable people in Ireland.

NASC response:

Not enough action being taken.

ICCL response:

The implementation of this recommendation is not borne out by the 2014 pre-budget submissions of the non-governmental organisations: see [European anti-Poverty Network \(EAPN\)](#) and [Free Legal Advice Centres \(FLAC\)](#).

Recommendation n°88: *Ensure the principle of equality and non-discrimination while guaranteeing the enjoyment of the right to health* (Recommended by Brazil)

IRI: *partially implemented*

State of Ireland response:

One of the main focuses of Irish health reform is to move away from the current hospital-centric model of care towards a new model of integrated care which treats patients at the lowest level of complexity that is safe, timely, efficient, and as close to home as possible.

The Government is committed to the delivery of a single-tier health service, supported by universal health insurance (UHI), where access is based on need and not on ability to pay. Under UHI, everyone will be insured and will have equal access to a standard package of primary and acute hospital services, including acute mental health services. An Insurance Fund will subsidise or pay insurance premiums for those who qualify for a subsidy.

IHRC response:

- Article 41.2 of the Irish Constitution continues to perpetuate stereotypical attitudes towards the role of women in Irish society and is a matter of priority and a specified timeframe for its replacement or amendment needs to be put in place.
- The State still needs to expand the definition of equality in Irish law. In particular, Article 40.1 of the Constitution should be amended to guarantee equality to all and to proscribe discrimination (direct or indirect) in any area of law and practice on non-exhaustive grounds.

NASC response:

Not enough action being taken.

Recommendation n°98: *Consider incorporating the right to health and the right to housing* (Recommended by Portugal)

IRI: *fully implemented*

State of Ireland response:

Ireland's signature of the Optional Protocol on 23 March 2012 reaffirmed Ireland's commitment to the promotion and protection of economic, social and cultural rights. The question of ratification is currently being examined.

Ireland has always been clear that treaty ratification is considered as something which should only be done after wide-ranging examination of all the issues and appropriate consultation with relevant Departments. As such, in order to lay out clearly the necessary steps to be taken to facilitate ratification, it is necessary to conduct a screening of obligations to be assumed under the Optional Protocol and to hold comprehensive and thorough consultations with all Government Departments.

Ireland is also carefully considering the possibility of making a declaration upon ratification, recognising the competence of the UN Committee on Economic, Social and Cultural Rights to undertake inquiry and inter-state procedures.

In relation to health matters, please see the response to recommendation [n°88].

As stated in the Addendum to the Report of the Working Group, the overarching aim of the Government's housing policy is to enable all households to access good quality housing appropriate to household circumstances and in their particular community of choice.

Cork Social Housing Forum (CSHF) response:

Ireland continues to experience a serious housing crisis. The most recent national figures reveal 89,872 households on waiting lists for social housing. While this is a decrease of 8,446 households in 2011 it is significantly higher than the 2008 figures of 56,249.

Some of the key factors in the ongoing crisis include:

- Over reliance on the market to provide for the level of housing required.
- Over reliance on the Rental Accommodation Scheme and Social Housing Leasing.
- Failure to provide substantial additional new Local Authority Housing.
- Inadequate resourcing of the Voluntary Housing and Services Sector.
- Small, fragmented and largely unregulated private rented accommodation sector.

- Those on low incomes or social welfare payments unable to compete for good standard accommodation in the private rented market.

These factors are likely to ensure the continuation of this crisis and in the long term result in poor value for money for the tax payer and inadequate security of tenure for families and single person households.

#### Recommendations:

- Housing is an integral aspect of economic, social and cultural rights and Cork Social Housing Forum calls on the Irish Government to immediately incorporate the right to housing into this body of human rights.
- The demand for social housing in Ireland has never been greater, and the challenge faced by both the voluntary and statutory sectors in meeting this need is significant. We therefore recommend that each local authority establish a Strategic Social Housing Forum where the goal would be the delivery of sustainable, integrated social housing as part of the overall housing plan for the local authority area. Membership of these Fora to comprise of Local Authorities, Voluntary Housing providers and other relevant parties to drive implementation and to ensure that it is done in a co-ordinated way.

#### ICCL response:

On 23 February 2014, the Convention on the Constitution issued a [report](#) which recommended that the Irish Government consider a referendum on the incorporation of economic, social and cultural rights into the Constitution.

*Recommendation n°111: Pursue efforts aimed at strengthening the protection of all people from racial discrimination and by improving the existing draft pieces of legislation and passing them into law (Recommended by Ghana)*

*IRI: partially implemented*

#### State of Ireland response:

As detailed in the Addendum to the Report of the Working Group, robust practical and legal measures against racial discrimination, racism and xenophobia are in place. Work in this area is ongoing.

The Minister for Justice and Equality is continuing to prioritise the issue of anti racism and anti xenophobia in the context of responding to an increasingly multi-ethnic and multi-cultural population in Ireland.

NASC response:

No significant progress on legislative reforms.

ICCL response:

[See response to recommendation n°59]

Recommendation n°123: *Accelerate efforts in establishing a national network of schools that guarantee equality of access to children irrespective of their religious, cultural or social background* (Recommended by Malaysia)

IRI: *not implemented*

AI response:

In 2010/ 2011 there were 3169 primary schools in Ireland. 96% are under denominational patronage, with almost 90% under Roman Catholic patronage. All these schools can legally give preference to co-religionists. While the state is funding the multi-denominational sector the process is still very slow and it is not envisaged that minorities will have access without religious discrimination to a local school in the foreseeable future.

ET response:

There have been some developments regarding access to education and the Minister for Education has established a Forum on Patronage and Pluralism in primary schools. Progress is slow, however, and so far only four multi-denominational schools have been established as a result of that process.

NASC response:

Despite commitment of Minister for Education, no significant change here.

ICCL response:

See Replies to the List of Issues regarding Ireland's Fourth Periodic Report to the Human Rights Committee, CCPR/C/IRL/Q/4/Add.1) para 152 - 157.

Recommendation n°124: *Strengthen the protection of all people from racial discrimination by improving the existing draft pieces of legislation and passing them into law* (Recommended by Pakistan)

IRI: *partially implemented*

State of Ireland response:

Ongoing. Please see responses to recommendations [n°54] and [n°103]

NASC response:

No significant progress on legislative reforms.

ICCL response:

[See response to recommendation n°59]

Recommendation n°125: *Establish appropriate mechanisms to encourage the reporting of racist incidents and crimes* (Recommended by Azerbaijan)

IRI: *partially implemented*

State of Ireland response:

Ongoing.

As stated in Ireland's Addendum to the Report of the Working Group in March 2012, robust mechanisms are in place to record complaints about racist crime and racial discrimination and comprehensive anti-racism training is provided to members of An Garda Síochána.

The Garda Síochána Racial, Intercultural and Diversity Office (GRIDO) places great emphasis on the reporting of any suspected racist crime. It works with a network of liaison officers at local level and gives advice on the services available to the victims of hate crime.

The Office for the Promotion of Migrant Integration, an Office of the Department of Justice and Equality, also undertakes important work in both monitoring the prevalence of hate crime and in the provision of information to victims of hate crime. It also works to promote positive attitudes towards integration in Irish society.

NASC response:

No significant action being taken at a state level.

ICCL response:

[See response to recommendation n°59]

Recommendation n°142: *Enact legislation to make the right to collective bargaining through trade unions in line with international commitments* (Recommended by Norway)

IRI: *not implemented*

State of Ireland response:

The Programme for Government contains a commitment to reform the current law on employees' right to engage in collective bargaining (the Industrial Relations (Amendment) Act 2001), in order to ensure compliance by the State with recent judgments of the European Court of Human Rights.

With this in mind, in late 2012, the Minister for Jobs, Enterprise and Innovation wrote to relevant stakeholders inviting their observations on the



matter. Submissions were subsequently received and a series of initial first step meetings took place between Departmental officials and stakeholders around mid-2013. Discussions with stakeholders are ongoing.

The Minister hopes to be in a position to put proposals to Cabinet soon. In this context, he is certain that satisfactory arrangements can be put in place that will reconcile Ireland's constitutional, social and economic traditions, and international obligations, whilst at the same time ensuring continued success in building Ireland's domestic jobs-base and in attracting overseas investment into the economy.

Irish Congress of Trade Unions (ICTU) response:

**SIGNIFICANT PROGRESS MADE BUT NECESSARY LEGISLATION NOT YET IN PLACE**

The Irish Government has been involved in consultations with the Irish Congress Trade Unions and employer groups (IBEC and the American Chamber of Commerce) on a framework for amending the legislation to bring law and practice in line with human rights commitments.

These consultations have resulted in a Cabinet decision on the 13th May 2014 to amend the legislation governing the right to collective bargaining at the level of the enterprise. A framework for the legislation was announced by the Minister for Jobs, Enterprise and Innovation, Mr Richard Bruton, TD. A copy of the announcement is [available [here](#)].

Trade unions have responded favourably to the announcement, with the ICTU welcoming this development as representing an important step towards the delivery on a political commitment given and key issues and concerns of workers and their trade unions.

Caution has to be expressed as the legislation has not yet been published and it is only when this is available that a detailed analysis of the proposals can be made on the extent to which Ireland will be in conformity with human rights obligations, specifically the right to collective bargaining.

It is hoped that the legislation will be available in June/July 2014.

The ICTU will keep the UPR updated on progress.

ICCL response:

Legislation not forthcoming despite commitment in current Programme for Government (2011).

Recommendation n°174: *The Government was committed to developing a system of universal health care* (Recommended by Ireland)

IRI: *partially implemented*

#### Challenging Ethnic Minority Health Inequalities (CAIRDE) response:

Irish government plans to introduce the universal health insurance by 2019. In April 2014 the Minister for Health published “The Path to Universal Healthcare: White Paper on Universal Health Insurance”. The document states that the government is committed to bring to an end existing inefficient two tier system. The fundamental objective of the Government’s health reform programme is an introduction of a single-tier health service which provides ‘equal access based on need, not ability to pay’ and delivers the best health outcomes. In the first phase of the provision of free GP care, the government plans to introduce free GP care to children under the age of 6. The White Paper has been criticised over the lack of proper consultation process with all stakeholders, including patients, general practitioners and other health workers.

Under a new proposal the universal health insurance will be compulsory for everyone with the State paying or subsidising the cost of premiums for most people. However, the Department of Public Expenditure and Reform raised concerns regarding the cost of the universal health insurance, warning that the measure could threaten the financial stability of the State. Concerns over the extra tax burden on families have been raised by the Minister for Social Protection. A public consultation process has begun and is due to last for eight weeks until 28th May 2014.

## Minorities

Recommendation n°46: *Take measures to make access available to people with disabilities, on an equal footing, to education, employment, housing, transport and cultural life and facilitate their access to public places and services* (Recommended by Costa Rica)

IRI: *fully implemented*

#### State of Ireland response:

Ongoing.

#### **Access to Public Places and Services**

The Disability Act 2005 is a positive action measure which provides a statutory basis for making public buildings and services accessible to people with disabilities. The Code of Practice on Accessibility of Public Services and Information Provided by Public Bodies was published by the

Irish National Disability Authority in order to assist public bodies in meeting their obligations in this regard.

### **Access to Cultural Life**

The Department of Arts, Heritage and the Gaeltacht is committed to improving access to cultural life for people with disabilities. For example, in the arts sector, the Arts Council is committed to the implementation of an Arts and Disability Policy and are working on a number of initiatives such as mainstreaming access to performances across the board, working with selected theatre companies and venues in marketing, preparation and delivery of assisted performances (captioned and audio described), improving access in existing arts venues and provision of the relevant staff training. Work is also ongoing in the Department to improve access to Ireland's natural and built heritage sites.

### **Access to Housing**

The Government's National Housing Strategy for People with a Disability, which was published in late 2011, sets out the broad framework for the delivery of housing for people with disabilities through mainstream housing policy. The Strategy forms part of a policy framework which will support people with disabilities in community based living with maximum independence and choice.

### **Access to Employment**

People with disabilities have equal access to employment through the Department of Social Protection's national network of Employment Services Offices and its newly launched INTREO service.

The National Disability Strategy Implementation Plan, published in July 2013, has as one of its actions the publication of a comprehensive employment strategy for people with disabilities. A second action is to ensure a coordinated approach to support persons with disabilities to progress into employment through this comprehensive employment strategy.

The aim of these actions is to ensure that more people with disabilities can access work and that services at local level are coordinated and there is joined up access across agency boundaries to deliver more seamless supports to people with disabilities.

### **Access to Transport**

The latest edition of Transport Access for All, the Department of Transport Tourism and Sport's Sectoral Plan under the Disability Act 2005, provides a

roadmap for further advancements in public transport accessibilities improvements. It aims to build on the progress already achieved and was prepared following an extensive consultation process. This Plan was completed in 2012 and has since been approved by both Houses of the Oireachtas.

### **Access to Education**

The preamble to the State's Education Act 1998, makes specific reference to provision for the education of persons with disabilities or special educational needs. A stated objective of the Act is 'to give practical effect to the constitutional rights of children, including children who have a disability or other special educational needs.'

The statutory framework for the education of children with special educational needs is contained in the Education for Persons with Special Educational Needs (EPSEN) Act 2004. The EPSEN Act promotes inclusive education for children with special educational needs; it outlines the duties and responsibilities of Boards of Management of schools and of principal teachers with regard to education provision for children with special educational needs; it deals with the development and implementation of education plans for children with assessed special educational needs; and it confers on parents a series of rights in relation to their child with special educational needs.

The National Council for Special Education (NCSE), established under the EPSEN Act, is responsible for the provision of a range of educational services at local and national level for students with special educational needs. In particular, its network of Special Education Needs Organisers (SENOs) co-ordinates special needs education provision at local level and arranges for the delivery of agreed educational services.

**Recommendation n°47: *Continue with the efforts related to the protection of the rights of people with disabilities* (Recommended by Ecuador)**

**IRI: *partially implemented***

#### State of Ireland response:

The Irish Government launched the National Disability Strategy in September 2004 to underpin the participation of people with disabilities in Irish society. The strategy builds on existing policy and legislation, including the policy of mainstreaming public services for people with disabilities. The key elements of the strategy are:

- the Disability Act 2005;

- sectoral plans prepared by six Government Departments that set out how each department will deliver specific services for people with disabilities;
- the Citizens Information Act 2007 ;
- the Education for Persons with Special Educational Needs Act 2004;
- a multi-annual investment programme 2006-2009 targeted at high-priority disability support services.

Implementation of the Strategy continues to be the focus of Government policy for the sector. However, a specific implementation plan for the strategy had not previously been developed. This Government is now addressing this.

An Implementation Plan has been developed with the identification by Departments of actions, timelines and key performance indicators. Significant discussion was undertaken between the Disability Stakeholders Group and Government Departments to reach agreement on the suite of actions contained in the Plan, which was published in July 2013.

The aim of the Implementation Plan is, through engaging with the disability sector and building on the traditional problem-solving and constructive approach of the community and voluntary sector, to make progress to achieve common interests. More targeted, innovative and flexible services, designed and delivered on the basis of the evidence drawn from systematic evaluation will help ensure that available resources are used to deliver services that meet the needs of the community as efficiently and effectively as possible.

#### ICCL response:

Ireland has not yet ratified the Convention on the Rights of People with Disabilities. Examples of how this recommendation has not been progressed include: the National Strategy for Mental Health services in Ireland - A Vision for Change (Department of Health and Children, (2001), A Vision for Change, (available [\[here\]](#)) recommends that adults with intellectual disabilities should be cared for, where appropriate, separately from people with a mental illness. However, a report by the Health Research Board Report found that in 2011, 113 people with a 'primary admission diagnosis' of intellectual disability were admitted to a dedicated psychiatric care setting (Health Research Board, (2011), Series 18: Activities of Irish Psychiatric Units and Hospitals 2011, Table 3.6, p. 83), available [\[here\]](#)). Under current Irish law, deaf persons are excluded from serving on juries in civil and criminal trials. In October 2010, the High Court

held that the County Registrar was wrong to exclude a potential juror who had never sought to be excused from service (*Clarke v Galway County Registrar* (High Court, Unreported, July 2010). Similarly, in November 2010, the High Court ruled that a deaf person could sit on a jury in a criminal trial (see *Flac, Judge Rules Deaf Man can Sit on Jury*, 29 Nov 2010. Available [\[here\]](#)). In 2010, the Law Reform Commission recommended that a further study on safeguards for sign language interpreters be conducted (Law Reform Commission, (2010), *Jury Service*, at page 138, available [\[here\]](#)). This study has not materialised and an appropriate legal framework cognisant of the judicial decisions referenced above has not been established.

*Recommendation n°53: Continue its efforts to ensure that migrants and women belonging to minorities continue to be the focus of government programmes specifically geared towards the protection of their rights (Recommended by Argentina)*

IRI: *partially implemented*

State of Ireland response:

Ongoing.

As stated in [n°50], the human rights of all residents are already comprehensively protected by Ireland's Constitution, which in effect, constitutes a Bill of Rights for the State, and by a robust legislative framework that includes the Equal Status Acts, the Employment Equality Acts, the Human Rights Commission Acts, the European Convention on Human Rights Act and the Irish Human Rights and Equality Commission Bill, which was published in March 2014.

IHRC response:

- The State has not taken steps to promote the participation of vulnerable and disadvantaged groups in the workforce, such as migrant workers, including by reforming the work permit system to incorporate freedom to change employers and providing temporary work permits to asylum seekers.
- The State has not introduced stand-alone legislation, to combat Human Trafficking, that defines forced or compulsory labour and servitude as a criminal offence in its own right, and in addition confers a specific mandate on the National Employment Rights Agency to include the detection and prosecution of such offences within their inspection and regulatory powers.
- To combat Trafficking, victims of forced or compulsory labour and servitude should have the opportunity to seek redress through civil law, whatever their legal status in the State, and be provided with appropriate protection by the State.



NASC response:

Failure to introduce immigration legislation or significant commitment to anti-racism.

ICCL response:

The Immigration, Protection and Residence Bill, when it is introduced, will regulate the asylum and immigration system in Ireland. On 11 February 2014, in response to a Parliamentary Question, the former Minister for Justice and Equality [stated](#) that "work on the Immigration, Residence and Protection Bill, which remains part of the Government's Legislation Programme, will be advanced to enable the publication of a new and enhanced version of the Bill later this year" (2014).

Recommendation n°54: *Take measures to tackle racial discrimination and to combat more resolutely all forms of racism, xenophobia and religious intolerance against foreigners and religious minorities, including Muslims* (Recommended by Iran)

IRI: *fully implemented*

State of Ireland response:

As detailed in the Addendum to the Report of the Working Group, robust practical and legal measures against racial discrimination, racism and xenophobia are in place. Work in this area is ongoing.

The Minister for Justice and Equality is continuing to prioritise the issue of anti racism and anti xenophobia in the context of responding to an increasingly multi-ethnic and multi-cultural population in Ireland.

Immigrant Council of Ireland (ICI) response:

The Irish Government has recently (March 2014) reconstituted the Cross Departmental Group on Integration, which will review Ireland's approach to the integration of migrants.

NASC response:

Not enough action being taken - no national action plan, no consultative body, significant legislative lacks.

ICCL response:

Statistics collected and produced by the Central Statistics Office (CSO) and external agencies such as the EU Fundamental Rights Agency point to a significant level of racially-motivated hate crime in Ireland (for example, EU Agency for Fundamental Rights – Minorities and Discrimination Survey (MIDIS), 2009 at p 59. available [\[here\]](#)). The lack of effective and systematic mechanisms to report/record data in relation to racially

motivated incidents / prosecutions undermines efforts to determine the extent to which racist and related hate crime continues to be a problem in Ireland. While the FRA considers Ireland's overall racist incident monitoring mechanism to be 'good', anecdotal evidence from statutory agencies (including the 2007 [Garda Síochána Public Attitudes Survey](#)), academic institutions, NGOs and community representative organisations suggest racially motivated crime is likely to be significantly under reported. Irish criminal law does not make express provision for racism as an aggravating circumstance at sentencing, except through the exercise of judicial discretion. Therefore, offences where racism may constitute a motivating factor continue to be dealt with in a generic fashion under the general criminal law, for example under a range of existing legislation including the Criminal Justice (Public Order) Act 1994, Non Fatal Offences against the Person Act 1997 and the Criminal Damage Act 1991. A review of Ireland's Incitement to Hatred Act 1989 (the "1989 Act") was published in 2008, and recommended against the introduction of racially motivated offences but advocated that racism should be taken into account as an aggravating factor at sentencing. This Review also found that there was a lack of a clear definition of 'hatred' under Irish law to assist prosecutors or judges. Furthermore, it concluded that, while the Act punishes incitement offences, it is ineffective for specific hate crimes and that judges may consider aggravating factors when sentencing. However, they are not compelled by statute or binding precedent of the Courts to do so.

**Recommendation n°55: *Fight Islamophobia and support its Muslim citizens, by enabling them to practise their religion* (Recommended by Iran)**

*IRI: fully implemented*

State of Ireland response:

Article 44 of the Constitution specifically protects religious freedom.

See comment under [recommendation n°54] in relation to tackling xenophobia and other forms of extreme intolerance.

NASC response:

Not enough action being taken.

ICCL response:

[See response to recommendation n°54]

**Recommendation n°56: *Ensure that any person involved in xenophobic and Islamophobic acts is investigated and prosecuted* (Recommended by Iran)**

*IRI: fully implemented*

State of Ireland response:

The Prohibition of Incitement to Hatred Act 1989 makes it an offence to publish or distribute written materials or to use words, behave or display written material outside a private residence (or inside a private residence if such can be seen or heard by persons outside it) or to distribute, show or display a recording of visual images or sounds that are threatening, abusive, insulting and are intended or, having regard to all the circumstances, are likely to stir up hatred.

Under Section 6 of the Prohibition of Incitement to Hatred Act 1989, a person convicted of an offence may be liable to imprisonment for up to 2 years and/or a maximum fine of €25,000. The maximum fine has been almost doubled from €12,700 with effect from 4 January, 2011 following the commencement of the indexation provisions of the Fines Act 2010. The summary fine - previously a maximum fine of €1,270 - is now a Class C fine, which is a maximum fine of €2,500.

Information provided by the Office of the Director of Public Prosecutions in 2011 shows that the Prohibition of Incitement to Hatred Act is being used to secure convictions for racist and xenophobic offences and is being considered by the judiciary when passing down sentence. A breakdown of statistics on reported racially motivated crimes is available on the website of the Office for the Promotion of Migrant Information.

It should also be noted that persons involved in incidents of a racist nature can be prosecuted under other enactments, e.g. the Non-Fatal Offences against the Person Act 1997 or the Criminal Damage Act 1991 and aggravating factors can be taken into account at sentencing.

ICI response:

There has been no continuation or follow-on to the National Action Plan Against Racism 2005-2008 and consequently Ireland is lacking an integrated, strategic mechanism for government action to respond to racism. Without these bodies and strategies, Ireland is deprived of national leadership, vision and a focal point for anti-discrimination and anti-racism measures as well as a forum for national debate on these matters.

NASC response:

Not enough action being taken - no reforms of existing legislation or new hate crime legislation and/or sentencing introduced.

ICCL response:

[See response to recommendation n°54]

Recommendation n°57: *Take more effective measures to combat racial discrimination and intolerance, including by promptly investigating and taking stern action against perpetrators of racism, xenophobic and discriminatory acts and by promoting intercultural understanding and tolerance between the different ethnic and faith groups in the country* (Recommended by *Malaysia*)

IRI: *partially implemented*

State of Ireland response:

See comments under recommendations [54] and [55]

NASC response:

Not enough action being taken - no national action plan, no consultative body, significant legislative lacks

ICI response:

The only independent national racist incident recording point in the State provided for by the NCCRI has not been replaced and funding has not been made available to NGOs working with Black and minority ethnic groups to continue the work, which we believe is particularly critical in these times of economic strife.

ICCL response:

[See response to recommendation n°54]

Recommendation n°58: *Strengthen its efforts to protect the human rights of all Ireland's citizens, including those from sub-Saharan Africa* (Recommended by *Indonesia*)

IRI: *fully implemented*

State of Ireland response:

Ongoing. Please see response to recommendation [50].

NASC response:

Not enough action being taken.

Recommendation n°61: *Strengthen the measures to improve the representation, education and protection of Travellers* (Recommended by *Chile*)

IRI: *not implemented*

State of Ireland response:

Travellers in Ireland have the same civil and political rights as other citizens under the Constitution. The key anti-discrimination measures, the Prohibition of Incitement to Hatred Act, 1989, the Unfair Dismissals Act

1977, the Employment Equality Acts and the Equal Status Acts specifically identify Travellers by name as a group protected. The Equality Act 2004, which transposed the EU Racial Equality Directive, applied all the protections of that Directive across all of the nine grounds contained in the legislation, including the Traveller community ground. All the protections afforded to ethnic minorities in EU directives and international conventions apply to Travellers because the Irish legislation giving effect to those international instruments explicitly protects Travellers.

ET response:

Models of education which take a rights-based approach and critically explore issues in relation to inequalities experienced by Travellers, such as the Educate Together model, should be promoted and made accessible in all parts of the country.

IHRC response:

- The State has not recognised Travellers as an ethnic minority.
- There is a lack of adequate, good quality accommodation provided to Travellers by Local Authorities, which in part arises from the non-recognition of Travellers as an ethnic group, insofar as their traditional nomadism is not recognised.
- Since 2000, there have only been 47 units of transient accommodation provided for nomadic Travellers across the country, with no new unit being provided since 2008. At the same time Travellers are subjected to draconian laws that allow for their summary removal from unofficial sites, the results being that Travellers ability to maintain a nomadic or semi-nomadic way of life is diminished.

PP response:

Please refer to Pavee Point Travelling with Austerity Report (April 2013) which documents hugely disproportionate cuts to Traveller education services (-86%) and broader supports. Anecdotally there are reports of greater numbers of Travellers leaving school earlier without the supports previously available to them however in the absence of data disaggregated by ethnicity it is hard to provide evidence base.

ICCL response:

Travellers continue to suffer high degree of racism and intolerance with many documented incidents of discrimination directed towards Travellers including in access to justice (see Article in Westmeath Independent, “Local judge rejects resignation calls”, 13 September 2012, available [\[here\]](#) and article in Irish Independent, “Travellers slam judge for knacker comment”, 26 January 2013, available [\[here\]](#)). Cases formerly taken under equality

legislation in relation to access to and provision of goods and services in licensed premises were moved from the quasi-judicial Equality Tribunal to the District (lowest) Courts following the enactment of the Intoxicating Liquor Act 2003. The Equality Authority has previously raised concern about the potential negative impacts of transferring jurisdiction for alleged discrimination on licensed premises from the Equality Tribunal to the District Courts (Third Report Submitted by Ireland Pursuant to Article 25, Paragraph 2 of the Framework Convention on the Protection of National Minorities, 18 July 2011, ACFC/SR/III(2011)004, at p. 44). Irish equality law protects against indirect discrimination, which may occur where an apparently neutral provision puts a person (who is listed in the legislation, including Travellers) at a particular disadvantage compared with other persons (Section 3 Equal Status Act 2000 as amended by Section 48 Equality Act 2004. Available [[here](#)]). A difference in treatment may be justified if objectively justified by a legitimate aim, and the means of achieving that aim are proportionate and necessary.

In *Stokes v Christian Brothers High School* (2011) case, a Catholic boys-only secondary school successfully appealed a decision by the Equality Tribunal which found that a Traveller student had been unfairly discriminated against under the school's admissions policy (*Christian Brothers' High School Clonmel v Stokes* (3 Feb 2012), McCarthy J, unreported HC [2011] IECC). The Tribunal had found that a "parental rule" operated by the school for admissions under which preference was afforded to the sons of past pupils, unfairly discriminated against Travellers who, through historical educational disadvantage, prejudice and social exclusion, would be far less likely to meet the criteria for admission. However, the High Court found that the school did not operate a policy that discriminates 'in particular' against Travellers but rather against any class of person who was not the son of a past pupil. In its fourth report on Ireland the European Commission on Racism and Intolerance (ECRI) found that a preferential admission policy favouring children whose parents attended the particular school can have indirect discriminatory effects on children of immigrant background, or from other disadvantaged groups like Travellers, whether they share the schools ethos or not (adopted December 2012, published February 2013). The Housing (Miscellaneous Provisions) Act 2002 criminalises trespass on public or private land and has a disproportionate effect on nomadic Travellers.

In its Fourth Report on Ireland (ECRI) noted that Travellers continue to face significant challenges in relation to adequate accommodation and that despite recent positive developments, there is still a shortage of Traveller specific accommodation (European Commission against Racism and



Intolerance ECRI Report on Ireland, Fourth Monitoring Cycle, 19 February 2013, CRI(2013)1, at p. 7, Available [[here](#)]). Under the Housing (Traveller Accommodation) Act 1998, local authorities are obliged to prepare and implement Traveller accommodation programmes including assessment of local need and the provision of transient sites (Section 10, Housing (Traveller Accommodation) Act 1998. Available [[here](#)]). These obligations were reiterated in the 2011 National Traveller / Roma Integration Strategy developed by the Department of Justice and Equality (Department of Justice and Equality, Ireland's National Traveller/Roma Integration Strategy, p. 11, Available [[here](#)]). ECRI has noted that further efforts are required to involve local authorities in the implementation of the National Traveller / Roma Integration Strategy pertaining to housing to meet the needs of Travellers (see ECRI reference above at p. 22).

Continuing challenges are faced by Travellers in relation to health and education outcomes and the impact of recent budgetary cuts. Recent cuts to specific educational supports appear to disproportionately affect Travellers, as highlighted in the report of the Human Rights Council's Independent Expert on Human Rights and Extreme Poverty following her visit to Ireland (Human Rights Council, Report of the Independent Expert on Human Rights and Extreme Poverty, Magdalena Sepúlveda Carmona Mission to Ireland 2011 A/HRC/17/34/Add.2, at p 18)

Recommendation n°62: *Continue its work for the full realization of human rights of the Traveller community in the country* (Recommended by Sweden)

IRI: not implemented

State of Ireland response:

Ongoing. See response to recommendation [n°61].

IHRC response:

[See response to recommendation n°61]

PP response:

The Irish government has not developed a progressive National Traveller Roma Integration Policy. It merely describes Traveller infrastructure (some of which is inaccurate). It has not engaged with civil society nor has it active Traveller or Roma participation. The Strategy ignores the Roma community in Ireland. We are calling for a national steering committee with an independent Chairperson to develop a progressive NTRIS with targets and resources identified. In EU Commission assessment (June 2013) Ireland met 4 out of 22 criteria.

ICCL response:

See [response to recommendation n°61] and also: In response to a recommendation by one delegation during Ireland's UPR examination in 2011 (Human Rights Council, Report of the Working Group on the Universal Periodic Review – Ireland, 2011 A/HRC/19/9), to explicitly recognise Travellers as an ethnic group, the Minister for Justice stated that serious consideration is being given to the proposal. Ireland Fourth Periodic Report under the ICCPR (2012) also notes that the term national minority is not legally defined in Irish law and that, further, the special position of Travellers is catered for by several legislative, administrative and policy measures. However, the State Report explicitly denies that Irish Travellers constitute a distinct group from the population as a whole in terms of race, colour, descent or national or ethnic origin.

In addition to the UPR process, recommendations to acknowledge Travellers as an ethnic group have been made by a number of International Treaty Monitoring bodies including the Committee for the Elimination of Racial Discrimination (CERD) (CERD/C/IRL/CO/3-4, at para12) and the Committee on the Rights of the Child (CRC) (CRC/C/IRL/CO/2 at para 79). In 2011, the Independent Expert on Human Rights and Extreme Poverty, Magdalena Sepúlveda Carmona, added her voice to the call for recognition (A/HRC/17/34/Add.2, at p 19). Furthermore, the Council of Europe (CoE) Advisory Committee on the Framework Convention on the Protection of National Minorities (ACFCNM) recommended a “finalised conclusion” to the Government's consideration of recognition (Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on Ireland, 10 October 2012, ACFC/OP/III(2012)006 at p 10.). Domestically, calls for recognition of Travellers as an ethnic group have been made by statutory bodies including the [Equality Authority](#), the [Irish Human Rights Commission \(IHRC\)](#).

Travellers have been recognised as fulfilling the criteria of an ethnic group (as distinct from Irish nationals) in the neighbouring UK jurisdiction (The Independent Newspaper, Irish Travellers gain legal status of ethnic minority, 30 August 2000. Available [\[here\]](#), including in Northern Ireland, leading to the disparity that nomadic Travellers living and moving across the border may be legally recognised as a separate and distinct ethnic group in one jurisdiction but not in the other. In April 2014, the Oireachtas (Parliament) Joint Committee on Justice, Defence and Equality published its [Report on Traveller Ethnicity](#), in which it recommended that the Taoiseach (Irish Prime Minister) or the Minister for Justice and Equality make a statement to Parliament "confirming that this State recognises the ethnicity of the travelling community".

Recommendation n°63: *Continue pursuing appropriate policies designed to provide for equal opportunities to members of the Traveller community, with special focus on access to health care, education and housing, including ensuring Travellers' participation in public life related decision-making process* (Recommended by Slovakia)

IRI: *not implemented*

State of Ireland response:

Ongoing. See response to recommendation [n°61].

ET response:

Models of education which are based on equal rights of access and esteem for all, and which focus on ensuring the voices of minorities, including Travellers, are heard in decision-making, such as the Educate Together model, should be promoted and made accessible in all parts of the country.

IHRC response:

[See response to recommendation n°61]

PP response:

Traveller accommodation budget cut by 85% and large underspends even in the allocated budgets. Local authorities not developing Traveller specific accommodation and forcing Traveller families into private rented sectors where many encounter problems of discrimination from landlords. Impact of this is growing mental health problems and Travellers removed from supportive extended family networks etc.

ICCL response:

See responses to recommendations 61 and 62.

Recommendation n°64: *Improve social and economic conditions of the members of the Traveller community* (Recommended by Pakistan)

IRI: *not implemented*

State of Ireland response:

Ongoing.

See comment under [recommendation n°61]

As Irish citizens, Travellers have the same rights and responsibilities of all other Irish citizens and are fully entitled to seek to avail of the various health, education, housing and employment services made available by the State. Specific dedicated strategies and special initiatives are being taken in each of the aforementioned areas to address the disadvantage which Travellers face. The High Level Group on Traveller Issues oversees the

delivery and implementation of these measures by the relevant statutory agencies involved.

IHRC response:

[See response to recommendation n°61]

PP response:

See NTRIS above-it provides an opportunity to have a comprehensive strategy to support Traveller and Roma communities in Ireland. Travellers or Roma have no political representation at national level; are over represented in prisons (up to 18 times AITHS); only 1% Travellers go to third level education with 60% leaving school early; unemployment rate of 84%. Has never been a training or employment strategy for Travellers. Roma community also victimised (2 Roma children taken into care in October 2013 on basis of blonde hair and blue eyes!) There is no ethnic identifier on routine administrative systems and therefore we cannot accurately ascertain outcomes for Travellers from a range of services or identify discrimination etc. Recently (April 2014) Irish government have announced a plan to develop a new Integration strategy for migrants (to replace the national Action Plan Against Racism which was inclusive of Travellers) and Travellers are excluded from the remit.

ICCL response:

See responses to recommendations 61 and 62.

Recommendation n°65: *Continue action to protect the conditions of migrant workers by improving existing legislation* (Recommended by Sri Lanka)

IRI: *fully implemented*

State of Ireland response:

**Enforcement of Employment Rights**

The employment rights conferred by Irish law apply to all workers legally employed in the State. These include the right to a minimum wage, regulated working hours, annual leave, public holidays, a right to notice before dismissal and protection against unfair dismissal. The State provides structures to both regulate the workplace and allow for the redress of complaints. The Irish labour inspectorate, the National Employment Rights Agency (NERA), carries out inspections of all workplaces in the State and addresses issues of non-compliance with employment law. It works closely with the Migrant Rights Centre of Ireland and other bodies on matters relating to the employment rights of migrant workers. NERA also provides employment rights information in 13 languages and where necessary has access to translation services to carry out its information and enforcement roles.

### Employment Permits

Amendments to the Employment Permits legislation are being drafted to strengthen protection of migrant workers in an irregular situation. The Bill has been approved by Government for publication, subject to necessary technical changes being made.

### Reform of Employment Rights Bodies

The Government is committed to reform of the State's existing Workplace Relations Services. To this end, it is proposed to establish a two-tier Workplace Relations structure which will involve two statutorily independent bodies replacing the current five. There will be a new single body of first instance to be called the Workplace Relations Commission (WRC) and a separate appeals body.

The Government is committed to the publication and enactment of the necessary legislation at an early stage with a view to having the proposed new Workplace Relations structures in place during 2014.

#### ICI response:

A new Employment Permits (Amendment) Bill 2014 has just been published which will provide for access to legal redress for undocumented workers, which will enable them to take a case in the civil courts against exploitative employers for back pay and compensation.

#### IHRC response:

[See response to recommendation n°53]

#### NASC response:

Some improvement in introduction of new work permit bill, forced labour legislation.

Recommendation n°91: *Establish a consolidated framework relating to immigration and asylum issues, including an independent Appeals body* (Recommended by United Kingdom)

IRI: *not implemented*

#### State of Ireland response:

The Immigration Residence and Protection Bill will consolidate Ireland's immigration and asylum laws, replacing several existing statutes and providing more detailed legislative measures in a number of areas and also putting in place a single procedure for protection cases. The establishment of an independent appeals system will be addressed as part of that Bill. It is anticipated that a revised Bill will be published during 2014.

Policy guidelines are being developed on an ongoing basis in respect of key migration streams. A policy document on family reunification was published at the end of 2013.

ICI response:

An independent appeals mechanism to include immigration and naturalisation decisions to provide more effective, transparency and cost-effective decision-making in parallel to the existing Refugee Appeals Tribunal, has not been established. Furthermore, the remit of the Ombudsman continues to exclude prisons, asylum, immigration and naturalisation decisions.

IHRC response:

[See response to recommendation n°53]

NASC response:

Bill not introduced yet; some changes in relation to subsidiary protection, family reunification.

Irish Refugee Council (IRC) response:

This recommendation has not been met. The new Minister for Justice stated in May 2014 that she would be reviewing the work done to date in respect of the Immigration, Residence and Protection Bill. The most recent draft of the Bill was published in 2010 but due to changes in government and a focus on other legislation, there has been no development in this area.

ICCL response:

The Immigration, Protection and Residence Bill, when it is introduced, will regulate the asylum and immigration system in Ireland. On 11 February 2014, in response to a Parliamentary Question, the former Minister for Justice and Equality [stated](#) that "work on the Immigration, Residence and Protection Bill, which remains part of the Government's Legislation Programme, will be advanced to enable the publication of a new and enhanced version of the Bill later this year" (2014).

Recommendation n°92: *Ensure that all asylum-seekers in Ireland can effectively accede to the process of determination of their refugee condition and that decisions on the necessity for international protection can be reviewed and are subject to independent judicial supervision* (Recommended by Mexico)

IRI: *partially implemented*



State of Ireland response:

Comprehensive structures and procedures are in place in the Office of the Refugee Applications Commissioner (ORAC) for the processing of asylum applications in line with the Refugee Act 1996 (as amended).

Free legal assistance (apart from a nominal registration fee, which is waived in certain circumstances) is available to all applicants. The applicant is notified regarding the availability of legal representation on the day they apply for asylum, and of the existence of the Refugee Legal Service.

The Refugee Legal Service (RLS) is an office established by the Legal Aid Board to provide independent and confidential legal services to asylum-seekers and refugees. The RLS can provide assistance to applicants before submission of the questionnaire or prior to appearing at the interview, and can make written submissions to the ORAC in support of an application. The RLS can also provide legal representation before the RAT. The RLS staff comprises of legal counsel and caseworkers who have been trained in refugee status determination. Asylum-seekers are also free to arrange for legal advice at their own expense. The RLS also have an office in ORAC, adjacent to the area where asylum applications are made.

IHRC response:

[See response to recommendation n°53]

NASC response:

Bill not introduced yet; some changes in relation to subsidiary protection, family reunification.

IRC response:

This recommendation has not been met. A person must still apply for refugee status, and have that application fully determined, before they can apply for subsidiary protection. This procedure may have to be altered considering the decision of the Court of Justice of the European Union which (CJEU, Case C-604/12, H. N. v Minister for Justice, Equality and Law Reform, Ireland, Attorney General) stated in May 2014 that a person applying for international protection must be able to submit an application for refugee status and subsidiary protection at the same time and that there should be no unreasonable delay in processing a subsidiary protection application. The Irish Refugee Council, responding to the CJEU decision, stated that it provides a clear mandate for reform of the existing procedure in Ireland.

Recommendation n°108: *Strengthen the legal framework for the protection of the rights of children and the rights of other vulnerable groups such as women, the elderly, people with disabilities and the community of Travellers* (Recommended by Peru)

IRI: *partially implemented*

State of Ireland response:

As detailed in the Addendum to the Report of the Working Group, robust practical and legal measures against racial discrimination, racism and xenophobia are in place. Work in this area is ongoing.

The Minister for Justice and Equality is continuing to prioritise the issue of anti racism and anti xenophobia in the context of responding to an increasingly multi-ethnic and multi-cultural population in Ireland.

NASC response:

Referendum was held and new legislation and departmental agency introduced to protect the rights of children

PP response:

Need disaggregated data on basis of ethnicity, gender and disability etc to accurately report on this.

ICCL response:

See responses to recommendations 61 and 62.

Recommendation n°109: *Enhance legal action against all forms of discrimination on the basis of race, ethnic, language, religion or national origin, in particular comprehensive respect for human rights of foreigners regardless of their migratory status* (Recommended by Ecuador)

IRI: *partially implemented*

State of Ireland response:

As detailed in the Addendum to the Report of the Working Group, robust practical and legal measures against racial discrimination, racism and xenophobia are in place. Work in this area is ongoing.

The Minister for Justice and Equality is continuing to prioritise the issue of anti racism and anti xenophobia in the context of responding to an increasingly multi-ethnic and multi-cultural population in Ireland.

AI response:

No steps have been taken by Ireland to enhance legal action against religious discrimination.

IHRC response:

[See response to recommendation n°53]

NASC response:

No significant progress on legislative reforms.

ICCL response:

[See response to recommendation n°54]

Recommendation n°117: *Enact laws setting principles on law, rights and obligations that govern family reunification* (Recommended by Uruguay)

IRI: *not implemented*

State of Ireland response:

A new Policy Document on Non-EEA Family Reunification has been published on the Department of Justice and Equality website on 31 December 2013. The purpose of this document is to set out a comprehensive statement of Irish national immigration policy in the area of family reunification. The guidelines are intended to provide for greater transparency in the immigration decision making process and also to set out in detail the reasoning behind the policies. It is intended that these guidelines will provide greater transparency in the system for decision-makers, applicants and practitioners. Greater emphasis is also placed on the responsibilities of sponsors. In addition the policy document outlines a number of administrative measures to be implemented over time, including a new pre-clearance process for applicants.

This issue will also be dealt with in the Immigration, Residence and Protection Bill due to be published later in 2014.

NASC response:

Policy document on family reunification published but no immigration bill introduced.

Recommendation n°126: *Investigate the reports of "knife stabbings" against people mainly from sub-Saharan Africa and ensure that the perpetrators are prosecuted and, when convicted, punished with appropriate penalties* (Recommended by Azerbaijan)

IRI: *partially implemented*

State of Ireland response:

Ongoing.

As stated in the Addendum to the Report of the Working Group, Ireland is firmly committed to ensuring that all instances of crime are properly investigated, and that perpetrators are convicted and the appropriate

sentence is handed down. However, there is no basis for the suggestion that there is a specific problem of stabbings involving people from Sub-Saharan Africa.

*Recommendation n°127: Introduce a complete integration policy for this specific group (referring to Travellers who continue to suffer from discrimination) (Recommended by Czech Republic)*

*IRI: not implemented*

State of Ireland response:

Ongoing. The Department of Justice and Equality is currently considering the existing mechanisms for consultation, implementation, monitoring and review of the National Traveller / Roma Integration Strategy with a view to recommending any necessary changes.

IHRC response:

[See response to recommendation n°61]

NASC response:

No action being taken.

PP response:

Travellers excluded from Integration Plan just announced by Government as it focuses on migrants.

ICCL response:

Not progressed - see comments regarding Traveller rights in response to recommendations 61 and 62.

*Recommendation n°128: Introduce measures to improve the conditions of Travellers in the society and introduce a comprehensive system for the monitoring of racist incidents (Recommended by Turkey)*

*IRI: partially implemented*

State of Ireland response:

Ongoing. Co-operation between the Garda Racial, Intercultural and Diversity Office (GRIDO) and the Travelling Community since 2011 has been strengthened through constant and positive engagement. Initiatives developed have provided reassurance to Travellers to report acts of racism and discrimination. Anti-discrimination seminars have been provided to 322 Ethnic Liaison Officers (ELOs) nationwide.

IHRC response:

[See response to recommendation n°61]

ICCL response:

Not progressed - see comments regarding Traveller rights and racist monitoring reporting in response to recommendations 61 and 62.

Recommendation n°129: *Recognize Travellers as an official minority* (Recommended by Slovakia)

IRI: *not implemented*

IHRC response:

[See response to recommendation n°61]

PP response:

A parliamentary Committee Justice, Defence and Equality recently recommended (April 2014) that the Minister for Justice accord this status on Travellers but Minister has not yet accepted the recommendation.

ICCL response:

Not progressed by Government though [Oireachtas \(Parliamentary\) Committee Report \(2014\)](#) has recommended such recognition.

Recommendation n°131: *Take the necessary measures to avoid detention of asylum-seekers and to avoid situations which may equate the condition of immigrants to that of felons* (Recommended by Brazil)

IRI: *partially implemented*

State of Ireland response:

There is no policy of systematic detention of adults or children seeking asylum in Ireland.

The provisions relating to the treatment of asylum seekers while detained and where they may be detained are set out in the Refugee Act 1996 (Places and Conditions of Detention) Regulations 2000. These Regulations make extensive provision for information to be provided to third parties (e.g. the UNHCR, the applicant's solicitor) regarding the detention of an individual. Provision is also made for visits and communications, treatment of the detained individual and prohibition on ill-treatment whilst in detention, the personal rights and dignities and the need to have regard for any special needs they may have. Detainees must also be allowed to have reasonable contact with members of their family group, whether other members of the family group are detained or not.

The Regulations also provide that an individual shall not be detained for a continuous period longer than 48 hours in a Garda station, or for any more than two consecutive overnight stays.

NASC response:

No significant actions have changed here.

IRC response:

Detention is not widely used for asylum seekers in Ireland. There are no detention centres for asylum seekers and irregular migrants. Asylum seekers are detained within the general prison population, at a Garda Síochána (police) station or another designated place of detention.

Recommendation n°145: *Adopt necessary measures to legally recognize the human rights of all minorities and ethnic groups that are residing in the country* (Recommended by Ecuador)

IRI: not implemented

State of Ireland response:

Ongoing.

As stated in the Addendum to the Report of the Working Group, the human rights of all residents are already comprehensively protected by Ireland's Constitution, which in effect, constitutes a Bill of Rights for the State, and by legislation.

NASC response:

No specific action taken.

PP response:

The National Action Plan Against Racism ended in 2008 and has not been updated. Using the excuse of Austerity political choices are being made—e.g. the closure of the National Consultative Committee on Racism and Interculturalism (NCCRI) in October 2008 as well as cuts in excess of 80% to a range of Traveller services.

Recommendation n°163: *Legislate against racial profiling and strengthen its efforts to promote the humane treatment of migrants and people of non-Irish origin by law enforcement officers* (Recommended by Iran)

IRI: not implemented

+

Recommendation n°166: *Strengthen its laws to prohibit racial profiling and strengthen its efforts to promote humane, dignified and non-selective treatment for migrants and other persons who are not of Irish origin* (Recommended by Honduras)

IRI: not implemented

ICCL response:

See information in response to recommendation 54 and also [Report of the Ombudsman for Children \(July 2014\)](#) which makes recommendations



regarding combating ethnic profiling by law enforcement authorities (specific reference to Roma).

Recommendation n°168: *Introduce a law allowing for family reunions as well as a law granting refugees the right to work* (Recommended by Czech Republic)

IRI: *fully implemented*

IRC response:

There is a law for family reunification of refugees (see Section 18 of the Refugee Act 1996). Refugees have the right to work but asylum seekers do not.

Recommendation n°176: *In regard to immigration and asylum matters generally, steps were being taken to reduce unacceptable delays in parts of the system. Legislation was before Parliament which would simplify procedures so that decisions on asylum, protection and immigration could be taken speedily and in a transparent manner* (Recommended by Ireland)

IRI: *not implemented*

NASC response:

Bill still not introduced.

IRC response:

The Irish government stated in March 2014 that The Irish government stated in the median processing time to a final decision on an asylum application was 36 weeks. There remain long delays in the asylum system when a person seeks judicial review of a decision of the Office of the Refugee Applications Commissioner or the Refugee Appeals Tribunal. The Irish Courts Service Annual Report 2012 stated that the waiting time for asylum-related judicial reviews was 37 months until the full hearing. 440 new asylum-related judicial review applications were made in the High Court in 2012 – a 37% decrease on 2011. Asylum related judicial reviews represented 44% of all judicial reviews applications made in 2012.

ICCL response:

Legislation not published - see response to recommendation 48.

## International Instruments

Recommendation nº1: *Complete the ratification process of the Convention on the Rights of Persons with Disabilities* (Recommended by Indonesia)

IRI: *not implemented*

+

Recommendation nº2: *Consider the ratification of the Convention on the Rights of Persons with Disabilities* (Recommended by Chile)

IRI: *fully implemented*

+

Recommendation nº3: *Consider the ratification of the Convention on the Rights of Persons with Disabilities* (Recommended by Ecuador)

IRI: *fully implemented*

+

Recommendation nº4: *Consider the possibility of ratification of the Convention on the Rights of Persons with Disabilities* (Recommended by Argentina)

IRI: *fully implemented*

+

Recommendation nº5: *Consider the possibility of ratification of the Convention on the Rights of Persons with Disabilities* (Recommended by Peru)

IRI: *fully implemented*

+

Recommendation nº6: *Ratify the Convention on the Rights of Persons with Disabilities* (Recommended by Austria)

IRI: *not implemented*

+

Recommendation nº7: *Ratify the Convention on the Rights of Persons with Disabilities* (Recommended by Canada)

IRI: *not implemented*

+

Recommendation nº8: *Ratify the Convention on the Rights of Persons with Disabilities* (Recommended by Greece)

IRI: *not implemented*

+

Recommendation nº9: *Ratify the Convention on the Rights of Persons with Disabilities* (Recommended by Iran)

IRI: *not implemented*

+

Recommendation n°10: *Ratify the Convention on the Rights of Persons with Disabilities* (Recommended by *Iraq*)

IRI: *not implemented*

+

Recommendation n°11: *Ratify the Convention on the Rights of Persons with Disabilities* (Recommended by *Spain*)

IRI: *not implemented*

+

Recommendation n°12: *Ratify the Convention on the Rights of Persons with Disabilities already signed in 2007* (Recommended by *Algeria*)

IRI: *not implemented*

+

Recommendation n°13: *Ratify the Convention on the Rights of Persons with Disabilities at the earliest possible time/as soon as possible* (Recommended by *France*)

IRI: *not implemented*

+

Recommendation n°14: *Ratify the Convention on the Rights of Persons with Disabilities at the earliest possible time/as soon as possible* (Recommended by *Hungary*)

IRI: *not implemented*

#### State of Ireland response:

Ongoing.

The Government intends to proceed to ratification of the Convention as quickly as possible, taking into account the need to ensure that all necessary legislative and administrative requirements under the Convention are being met. Ireland does not become party to treaties until it is first in a position to comply with the obligations imposed by the treaty in question, including by amending domestic law as necessary.

An Interdepartmental Committee on the Convention is monitoring the remaining legislative and administrative actions required to enable ratification. The Committee has identified as part of its work programme issues to be considered by various Government Departments. It is a matter for those Departments to determine whether any actions are required in relation to these issues in advance of ratification and report back to the Committee. This work is ongoing in all Departments. At the Committee's request, the National Disability Authority, the lead statutory agency for the sector, is also assisting it to assess remaining requirements for ratification to ensure that all outstanding issues will be comprehensively addressed.

IHRC response:

- The State has not yet ratified a number of the instruments it undertook to ratify in 2011.

[...]

NASC response:

Not ratified.

ICCL response:

The Irish government has declared its intention to ratify the ICRPD upon enactment of the Assisted Decision Making (Capacity) Bill 2013. This was presented to the Irish Parliament on 15 July 2013. The Bill has completed two out of five stages in the Lower House and, once completed, will proceed to the Upper House.

Recommendation n°15: *Become a party of the Optional Protocol to the Convention against Torture (OP-CAT)* (Recommended by Estonia)

IRI: not implemented

+

Recommendation n°16: *Consider accession to the Optional Protocol to the Convention against Torture (OP-CAT)* (Recommended by Brazil)

IRI: fully implemented

+

Recommendation n°17: *Consider ratification of the Optional Protocol to the Convention against Torture (OP-CAT)* (Recommended by Chile)

IRI: fully implemented

+

Recommendation n°18: *Ratify the Optional Protocol to the Convention against Torture (OP-CAT)* (Recommended by France)

IRI: not implemented

+

Recommendation n°19: *Ratify the Optional Protocol to the Convention against Torture (OP-CAT)* (Recommended by Greece)

IRI: not implemented

+

Recommendation n°20: *Ratify the Optional Protocol to the Convention against Torture (OP-CAT)* (Recommended by Slovenia)

IRI: not implemented

+

Recommendation n°21: *Ratify the Optional Protocol to the Convention against Torture (OP-CAT)* (Recommended by United Kingdom)

IRI: not implemented

+

Recommendation n°23: *Continue the efforts for a speedy ratification of the Optional Protocol to the Convention against Torture* (Recommended by Peru)

IRI: *fully implemented*

State of Ireland response:

Work is progressing on the Draft General Scheme of the Inspection of Places of Detention Bill. Enactment of this Bill is a necessary prior step to ratification.

IHRC response:

- The State has not yet ratified a number of the instruments it undertook to ratify in 2011.

[...]

NASC response:

Not ratified

ICCL response:

Ireland signed the Option Protocol in October 2007. Legislation required to give effect to provisions of the Optional Protocol – the Inspection of Places of Detention Bill – has not yet been published. The Bill is situated in Section C (Bills in respect of which heads have yet to be approved by Government) of the current Government Legislation Programme, numbered at 118 (a place it has maintained for several of the preceding sessions), with an indicator that "Publication Expected - Not possible to indicate at this stage". The Irish Government has not provided any indication that this legislation will be progressed in the foreseeable future.

Recommendation n°22: *Ratify the Optional Protocol to the Convention against Torture (OP-CAT) and set up a national prevention mechanism that meets the criteria and guarantees under this instrument* (Recommended by Switzerland)

IRI: *not implemented*

State of Ireland response:

Work is progressing on the Draft General Scheme of the Inspection of Places of Detention Bill. Enactment of this Bill is a necessary prior step to ratification.

IHRC response:

- The State has not yet ratified a number of the instruments it undertook to ratify in 2011.

[...]

NASC response:

Not ratified, no mechanism

ICCL response:

Ireland signed the Option Protocol in October 2007. Legislation required to give effect to provisions of the Optional Protocol – the Inspection of Places of Detention Bill – has not yet been published. The Bill is situated in Section C (Bills in respect of which heads have yet to be approved by Government) of the current Government Legislation Programme, numbered at 118 (a place it has maintained for several of the preceding sessions), with an indicator that "Publication Expected - Not possible to indicate at this stage". The Irish Government has not provided any indication that this legislation will be progressed in the foreseeable future.

Recommendation n°24: *Pursue efforts to ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CED)* (Recommended by Iraq)

IRI: *partially implemented*

+

Recommendation n°25: *Complete the ratification process of the International Convention for the Protection of All Persons from Enforced Disappearance (CED)* (Recommended by Indonesia)

IRI: *not implemented*

+

Recommendation n°26: *Consider the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (CED)* (Recommended by Argentina)

IRI: *fully implemented*

+

Recommendation n°27: *Consider the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (CED)* (Recommended by Ecuador)

IRI: *fully implemented*

+

Recommendation n°28: *Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CED)* (Recommended by Spain)

IRI: *not implemented*

+

Recommendation n°29: *Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CED) as soon as possible* (Recommended by France)

IRI: *not implemented*



State of Ireland response:

Ongoing.

It is likely that legislation will be required in advance of ratification. Legislative requirements are being examined. Any necessary legislation will be progressed as soon as possible, taking into account other priorities, including ratification of other international human rights conventions.

IHRC response:

- The State has not yet ratified a number of the instruments it undertook to ratify in 2011.

[...]

NASC response:

Not ratified

ICCL response:

No legislation to allow ratification of this Convention has been prepared.

Recommendation n°30: *Continue the process of accession to or ratification of the pending main international human rights instruments, in particular CED and the Convention on the Rights of Persons with Disabilities (CRPD)* (Recommended by Costa Rica)

*IRI: fully implemented*

State of Ireland response:

Ongoing.

Please see response to recommendation [n°24] on CED.

Please see response to recommendation [n°1] on UN CRPD.

IHRC response:

- The State has not yet ratified a number of the instruments it undertook to ratify in 2011.

[...]

NASC response:

Not ratified

ICCL response:

No legislation to allow ratification of the CED has been prepared. The Irish Government has declared its intention to ratify the ICRPD upon enactment of the Assisted Decision Making (Capacity) Bill 2013. This was presented to the Irish Parliament on 15 July 2013. The Bill has completed two out of five stages in the Lower House and will then proceed to the Upper House.

Recommendation n°31: *Consider the ratification of the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography (OP-SCR) (Recommended by Chile)*

IRI: *fully implemented*

+

Recommendation n°32: *Consider the ratification of the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography (OP-SCR) (Recommended by Ecuador)*

IRI: *fully implemented*

+

Recommendation n°33: *Ratify the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography (OP-SCR) (Recommended by Portugal)*

IRI: *not implemented*

+

Recommendation n°34: *Ratify the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography (OP-SCR) (Recommended by Slovenia)*

IRI: *not implemented*

+

Recommendation n°35: *Ratify the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography (OP-SCR) (Recommended by Turkey)*

IRI: *not implemented*

+

Recommendation n°36: *Ratify the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography (OP-SCR) as soon as possible (Recommended by France)*

IRI: *not implemented*

#### State of Ireland response:

The criminal law elements of the Optional Protocol have largely been implemented in our existing sexual offences and human trafficking legislation.

The Department of Justice and Equality has been conducting a wide-ranging examination of the law on sexual offences. Arising from that review, the Minister expects to bring legislative proposals, including measures to implement outstanding criminal law requirements in the Protocol and other international instruments, to Government for approval shortly.

IHRC response:

- The State has not yet ratified a number of the instruments it undertook to ratify in 2011.
- The State has sought to introduce one limited constitutional amendment, to provide for enhanced children's rights, in respect to Article 19 of the Convention on the Rights of the Child (presently under legal challenge).
- The State has established a Constitutional Convention but not formally referred the matter of the incorporation of ratified treaty rights into domestic law for its consideration.

NASC response:

Not ratified

ICCL response:

No legislation to allow ratification of the Optional Protocol has been prepared. Ireland submitted its Joint Third and Fourth Report to the Committee on the Rights of the Child in August 2013 and made the following [statement](#) regarding the OP: "The Minister for Children and Youth Affairs has announced her intention to examine ratification of the Optional Protocol as soon as possible, following full consideration of the content of the Protocol with the Minister for Justice and Equality. The Minister for Children and Youth Affairs discussed the issue of the ratification of this Protocol in a meeting with the UN Special Representative on Violence Against Children, Ms. Martha Santos Pais, at a meeting in Dublin on 11th June 2012 during the Special Representative's official visit to Ireland. It was agreed that the matter would be prioritised following consideration by the people of Ireland in the Children's Referendum held in 2012, the submission of the State's next report to the UN Committee on the Rights of the Child and the setting-up of the new Child and Family Agency. Many of the criminal law provisions of the Optional Protocol to the Convention have already been implemented in existing domestic legislation. Legislative proposals which the Minister for Justice and Equality intends to bring to Government shortly will facilitate full compliance with the criminal law requirements of the Optional Protocol and other related international legal instruments." (at paras 182 and 183). On 27 May 2014, in a written reply to a Parliamentary Question regarding ratification of the OP, the Minister for Justice and Equality stated that: "The criminal law elements of the Optional Protocol have largely been implemented by the Child Trafficking and Pornography Act 1998 and the Criminal Law (Human Trafficking) Act 2008. On 17 December last, the Government approved the drafting of a wide ranging Sexual Offences Bill. This will include measures to enable full compliance with the criminal law provisions of a number of international

legal instruments, including the outstanding requirements in the Optional Protocol so as to facilitate its ratification".

Recommendation n°41: *Ensure a comprehensive and effective incorporation of children's rights into its legal framework in line with the Convention on the Rights of the Child (CRC), by incorporating children's rights into the Constitution (Recommended by Portugal)*

IRI: *not implemented*

State of Ireland response:

A referendum to amend the Constitution to acknowledge and affirm the rights of children was passed on 10 November 2012.

A challenge to the Provisional Referendum Certificate was lodged in the High Court and was unsuccessful. However, this matter has been appealed to the Supreme Court which has indicated it will hear the appeal early in 2014.

The matter of referring the Referendum Bill to the President for signing into law, and to give effect to the Constitutional changes concerned, must await determination by the Courts of the issues raised in the legal challenge made.

IHRC response:

- The State has not yet ratified a number of the instruments it undertook to ratify in 2011.
- The State has sought to introduce one limited constitutional amendment, to provide for enhanced children's rights, in respect to Article 19 of the Convention on the Rights of the Child (presently under legal challenge).
- The State has established a Constitutional Convention but not formally referred the matter of the incorporation of ratified treaty rights into domestic law for its consideration.

NASC response:

Referendum was held and new legislation and departmental agency introduced to protect the rights of children.

ICCL response:

Although the Thirty-First Amendment Bill (the Children's Referendum) was passed by referendum in 2013, a judicial challenge to the process has effectively frozen the process of implementing the referendum result. The appeal to the Supreme Court, which will be heard in 2014, meaning that no law reform can take place to implement the referendum result until the case is decided.

Recommendation n°42: *Give further effect to international human rights instruments in the domestic legislation, including from the provisions contained in the CRC (Recommended by Indonesia)*

IRI: *not implemented*

State of Ireland response:

Please see response to recommendation [n°40]

The State submitted a combined 3rd and 4th Report to the UN Committee on the Rights of the Child in August 2013, which gives updates in relation to the Convention on the Rights of the Child.

IHRC response:

- The State has not yet ratified a number of the instruments it undertook to ratify in 2011.
- The State has sought to introduce one limited constitutional amendment, to provide for enhanced children's rights, in respect to Article 19 of the Convention on the Rights of the Child (presently under legal challenge).
- The State has established a Constitutional Convention but not formally referred the matter of the incorporation of ratified treaty rights into domestic law for its consideration.

NASC response:

Very little progress here, except for children's rights.

ICCL response:

Ireland is a dualist legal system; therefore, international treaties must be incorporated directly into Irish law to have direct effect, for example, before the Courts. Ireland submitted its Joint Third and Fourth Report to the Committee on the Rights of the Child in August 2013 which included information regarding the following legislation in response to the Committee's recommendation that Ireland "undertake further action to incorporate the Convention into domestic law" (at paras 20 to 26): Child Care (Amendment) Act 2007; Child Care (Amendment) Act 2011; Adoption Act 2010; Health Act 2007; Thirty-First Amendment of the Constitution (Children) Bill 2012 (see above at [recommendation n°41]).

Recommendation n°68: *Give priority to bringing conditions and treatment of detainees in Irish prisons into line with international human rights standards, including through implementing outstanding recommendations from international human rights bodies (Recommended by Norway)*

IRI: *fully implemented*

State of Ireland response:

The Irish Prison Service works closely with the Office of the Inspector of Prisons in bringing conditions and treatment of detainees in Irish prisons into line with international human rights standards.

The Inspector of Prisons Office is a statutory, independent office established under the Prisons Act, 2007 whose main role is to carry out regular inspections of the 14 prisons and places of detention in the State and to present his report(s) on each institution visited as well as an Annual Report to the Minister for Justice and Equality.

In addition, one of the over arching high level objectives which underpins the Irish Prison Service Three Year Strategic Plan 2012 – 2015 is ensuring Ireland's compliance with domestic and international human rights obligations and best practice. A number of strategic actions including a reduction in overcrowding and ending the detention of children are currently being implemented to ensure such compliance.

IHRC response:

- The State has taken steps to improve prisoner conditions including the basic training of Prison Officers in human rights in conjunction with the IHRC. However it has yet to fully end the practice of 'slopping-out'.
- Although the Inspector of Prisons' mandate has been expanded, the State has yet to take steps towards the ratification of OPCAT and establishment or designation of a National Preventative Mechanism that meets the Paris Principles requirements of independence, expertise and resources to ensure oversight of places of detention in Ireland.
- There is still a failure to fully separate sentenced and remand prisoners.
- An independent Prisoner Ombudsman is still to be established to investigate individual complaints made by prisoners in relation to their treatment while in prison.

Irish Penal Reform Trust (IPRT) response:

Partially implemented. One of the over arching high level objectives which underpins the Irish Prison Service Three Year Strategic Plan 2012-2015 is ensuring Ireland's compliance with international human rights obligations and best practise. The reduction in overcrowding, refurbishment of sanitation facilities in the older prison estate and the end of detaining children in adult prisons are currently being implemented to ensure such compliance.

The European Committee for the Prevention of Torture (CPT) has repeatedly stated that it considers the act of discharging human waste in a



confined space used as a living area to be degrading. In 2011, the CPT called upon the Irish authorities to eradicate “slopping out” from the prison system as did the UN Committee against Torture in 2011. On 1 April 2014, there were 334 men still slopping out in the Irish prison system: 226 prisoners in Cork prison, 46 in Limerick prison and 59 prisoners in Portlaoise prison.

At present, Ireland has not ratified the Optional Protocol to the UN Convention against Torture and other Inhuman or Degrading Treatment or Punishment (OPCAT) as recommended by the UN Committee against Torture in 2011. Ratification of OPCAT would require the establishment and maintenance of one or several independent national preventive mechanisms which regularly examine the treatment of persons deprived of their liberty in places of detention. In 2013, the Minister for Justice stated the Irish Government had approved the drafting of a General Scheme of an Inspection of Places of Detention Bill, which would include provisions to enable ratification of OPCAT by enabling the designation of a national preventive mechanism. However, it now appears unlikely that legislation will be produced by the end of 2014. In Ireland, at present, there is no independent, fully-functioning and comprehensive prisoner complaints mechanism.

The detention of children in St Patrick’s Institution, an adult prison, has been criticised by many international bodies as a glaring human rights violation in direct contravention with Article 37 of the UN Convention on the Rights of the Child. The decision to close St Patrick’s Institution was a positive and long overdue development. All sentenced 17-year olds boys were transferred to an interim unit in the adult Wheatfield Prison as a temporary, short-term measure. Building work at the National Children Detention Facility, to facilitate the transfer of all detained 17-year olds in the future, is expected to be complete during 2014. On 1 May 2014, three young people are still detained under remand in St. Patrick’s Institution. An adult prison is entirely unsuitable for young people. Given the serious criticisms of conditions in St Patrick’s Institution, an alternative solution needs to be put in place until the new facility is operational.

In 2011, the European Committee for the Prevention of Torture (CPT) recommended that a sentence plan be drawn up for all prisoners, with particular attention paid to the needs of persons sentenced to life-imprisonment and other prisoners serving lengthy sentences. Further, it would like to be informed whether the Integrated Sentence Management system will be extended to all prisons in 2011. At the end of April 2013, there were over 2,300 current and active cases within the Integrated

Sentence Management scheme. This extensive caseload is currently being managed by sixteen ISM Co-ordinators in place in ten institutions. This highlights a significant lack of resources as sixteen ISM Co-ordinators manage over 2,300 cases. At present, there are currently no ISM Co-ordinators in Cork, Shelton Abbey, Limerick Male and Limerick Female Prison.

Recommendation n°71: *Further improve the conditions of detainees in line with international human rights standards* (Recommended by Hungary)

IRI: *fully implemented*

State of Ireland response:

See responses to recommendations [n°67] and [n°68]

IHRC response:

[See response to recommendation n°68]

IPRT response:

Partially implemented. (See more detailed reply above, Recommendation 68)

Recommendation n°76: *Urgently and comprehensively bring conditions for the prison population into line with international human rights standards* (Recommended by Sweden)

IRI: *partially implemented*

State of Ireland response:

Please see responses to recommendations [67] and [68]

IHRC response:

[See response to recommendation n°68]

IPRT response:

Partially implemented. (See more detailed reply above, Recommendations 67, 68, 70 and 72).

Recommendation n°83: *Submit rapidly its national report to the Committee on the Elimination of Discrimination against Women (CEDAW) that was due in 2007 and include a section on violence against women as requested by the Committee* (Recommended by Switzerland)

IRI: *not implemented*

State of Ireland response:

Ongoing.

Ireland's sixth and seventh (combined) reports due under the CEDAW are in the course of preparation and will be submitted shortly.

IHRC response:

The State has not ratified the Council of Europe Convention on Preventing and Combating violence against Women and Domestic Violence and in this context has not provided adequate resources for domestic violence services.

ICCL response:

Ireland's Fourth Periodic Report to CEDAW, due on 22 January 2007 has still not been submitted. In answer to a Parliamentary Question made in July 2012, the former Minister for Justice and Equality [stated](#) that the Government is "undertaking a comprehensive review of the implementation of the National Women's Strategy 2007 - 2016 which is providing invaluable information for incorporation into the CEDAW report and which is approaching completion" and that the next combined CEDAW Report will be submitted to the United Nations "at the earliest opportunity".

Recommendation n°94: *Sign and ratify the Optional Protocol to the CRPD (Recommended by Austria)*

IRI: not implemented

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Recommendation n°95: *Sign and ratify the Optional Protocol to the CRPD (Recommended by Spain)*

IRI: not implemented

State of Ireland response:

Ongoing.

Ireland has not yet ratified the UN Convention on the Rights of Persons with Disabilities; the decisions regarding its Optional Protocol will be addressed by the Government at the time of consideration of ratification of the Convention.

ICCL response:

The Irish government has declared its intention to ratify the ICRPD upon enactment of the Assisted Decision Making (Capacity) Bill 2013. This was presented to the Irish Parliament on 15 July 2013. The Bill has completed two out of five stages in the Lower House and will then proceed to the Upper House.

Recommendation n°96: *Continue the process of accession to or ratification of the pending main international human rights instruments, in particular OP-CRPD (Recommended by Costa Rica)*

IRI: not implemented

State of Ireland response:

[See response to recommendation n°94]

NASC response:

No ratifications have taken place.

ICCL response:

[See response to recommendation n°94]

Recommendation n°97: *Withdraw its reservations to the International Covenant on Civil and Political Rights (ICCPR)* (Recommended by Brazil)

IRI: *not implemented*

State of Ireland response:

Ireland's position is set out in the Addendum to the Report of the Working Group.

ICCL response:

See Ireland's Replies to the List of Issues (27 February 2014), para 2 - 4:

2. All reservations made by Ireland under international treaties are kept under review, with a view to their withdrawal where possible.

3. In relation to article 10, paragraph 2, as set out in our fourth report and elaborated upon further in this document, significant efforts are made to house remand prisoners in purpose built accommodation. Ireland remains committed to implementation of the principles set down in article 10, paragraph 2 but it is not possible at this stage to withdraw the reservation to article 10, paragraph 2. The position will be kept under review.

4. In relation to article 20, paragraph 1, Ireland has no plans to withdraw the reservation at this time. Please see below for further information with regard to the prohibition of hate speech.

(UN doc CCPR C/IRL/Q/4/Add.1).

Recommendation n°99: *Sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR)* (Recommended by Ecuador)

IRI: *partially implemented*

State of Ireland response:

Ireland's signature of the Optional Protocol on 23 March 2012 reaffirmed Ireland's commitment to the promotion and protection of economic, social and cultural rights. The question of ratification is currently being examined.

Ireland has always been clear that treaty ratification is considered as something which should only be done after wide-ranging examination of all the issues and appropriate consultation with relevant Departments. As

such, in order to lay out clearly the necessary steps to be taken to facilitate ratification, it is necessary to conduct a screening of obligations to be assumed under the Optional Protocol and to hold comprehensive and thorough consultations with all Government Departments.

Ireland is also carefully considering the possibility of making a declaration upon ratification, recognising the competence of the UN Committee on Economic, Social and Cultural Rights to undertake inquiry and inter-state procedures.

In relation to health matters, please see the response to recommendation [n°88]

As stated in the Addendum to the Report of the Working Group, the overarching aim of the Government's housing policy is to enable all households to access good quality housing appropriate to household circumstances and in their particular community of choice.

NASC response:

Not ratified.

ICCL response:

No progress.

Recommendation n°100: *Withdraw its reservations to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ICESCR and ICCPR (Recommended by Iran)*

*IRI: not implemented*

State of Ireland response:

Ireland's position is set out clearly in Addendum to the Report of the Working Group

NASC response:

No plans to withdraw

ICCL response:

No progress. See above at [recommendation n°97]. Ireland's Combined Fifth, Sixth and Seventh Report to the Committee for the Elimination of Racial Discrimination was not submitted on the due date of 22 January 2014. Ireland's Third Periodic Report to the Committee on Economic, Social and Cultural Rights was submitted in May 2012; however no reference was made to Ireland's reservations under Article 2(2) and 13(2)(a) of the

Convention (It is expected that Ireland will be examined by the Committee in 2015).

Recommendation n°101: *Ratify the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education (1960) (Recommended by Hungary)*

IRI: *not implemented*

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Recommendation n°102: *Ratify the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education (1960) and incorporate it into law (Recommended by Iran)*

IRI: *not implemented*

NASC response:

No plans to ratify.

ICCL response:

This has not been progressed.

Recommendation n°103: *Adopt practical and legal measures to curb racial discrimination and discrimination against migrants and look at the appeal by UNESCO to ratify the Convention against Discrimination in Education (Recommended by Uzbekistan)*

IRI: *not implemented*

State of Ireland response:

While there are no immediate plans for Ireland to ratify the Convention, Ireland is fully committed to the principles of equality of educational opportunity contained in the Convention.

As detailed in the Addendum to the Report of the Working Group, robust practical and legal measures against racial discrimination, racism and xenophobia are in place.

For information on ongoing work in this area, please see response to [recommendation n°54].

ICI response:

The majority of primary and second level schools in Ireland are denominational and remain at least partially in the control of religious bodies. In spite of recommendations by the UN CERD Committee and the UN Human Rights Committee, the State has failed to amend an aspect of the Equal Status Acts 2000-2008 that allows religious institutions to give preference to people who share their religious ethos in areas such as employment, as well as admittance to schools. Given that the majority of



schools in Ireland are under the aegis of one religion, Roman Catholicism, children of other or no faiths have been denied enrolment because the schools can legally deny them access citing their 'Catholics first enrolment policy'.

NASC response:

Concerns with lack of action on curbing racial discrimination in education.

ICCL response:

This has not been progressed despite the recurring recommendation of the European Commission against Racism and Intolerance (ECRI), most recently in its [Fourth Report on Ireland](#) (19 February 2013)(para 10).

Recommendation n°104: *Continue the implementation of the recommendations made by the Committee on the Elimination of Racial Discrimination (CERD)* (Recommended by Iraq)

IRI: *not implemented*

State of Ireland response:

The recommendations made by the Committee in its consideration of Ireland's Joint 3rd and 4th State Report covered issues which crossed a number of areas of responsibility. Government Departments with responsibility for each area were made aware of the recommendations. The progress made on the issues identified by the Committee will be addressed in Ireland's Joint 5th, 6th and 7th State report to UN CERD which is due in 2014.

NASC response:

No significant progress.

ICCL response:

Ireland's Combined Fifth, Sixth and Seventh Report to the Committee for the Elimination of Racial Discrimination was not submitted on the due date of 22 January 2014.

Recommendation n°105: *Ensure the comprehensive and effective incorporation of children's rights into Ireland's legal framework in line with the United Nations Convention on the Rights of the Child by incorporating children's rights into the Constitution* (Recommended by Cambodia)

IRI: *not implemented*

State of Ireland response:

A referendum to amend the Constitution to acknowledge and affirm the rights of children was passed on 10 November 2012.

A challenge to the Provisional Referendum Certificate was lodged in the High Court and was unsuccessful. However, this matter has been appealed to the Supreme Court which has indicated it will hear the appeal early in 2014.

The matter of referring the Referendum Bill to the President for signing into law, and to give effect to the Constitutional changes concerned, must await determination by the Courts of the issues raised in the legal challenge made.

NASC response:

Referendum was held and new legislation and departmental agency introduced to protect the rights of children.

ICCL response:

Although the Thirty-First Amendment Bill (the Children's Referendum) was passed by referendum in 2013, a judicial challenge to the process has effectively frozen the process of implementing the referendum result. The appeal to the Supreme Court, which will be heard in 2014, means that no law reform can take place to implement the referendum result until the case is decided.

Recommendation n°106: *Urgently take measures necessary to ensure that the United Nations Convention on the Rights of the Child is fully implemented and incorporated into the legal and administrative system of Ireland* (Recommended by Sweden)

IRI: *fully implemented*

State of Ireland response:

Ongoing.

Please see response to recommendation [n°40]

The State has submitted a combined 3rd and 4th Report to the UNCRC in August 2013 which gives updates in relation these matters. Paragraph 190 of this Report refers to the Status of the UNCRC in Irish law.

NASC response:

Referendum was held and new legislation and departmental agency introduced to protect the rights of children.

ICCL response:

The Government submitted its Third Periodic Report to the Committee on the Rights of the Child in May 2013. It did not indicate any plans to incorporate the Convention.

**Recommendation n°112:** *Adopt laws to deal with the situation of persons not enjoying the highest level of physical and mental health with regards to the 2001 Act on Mental Health and bring its provisions in line with the CRPD (Recommended by Spain)*

IRI: *partially implemented*

State of Ireland response:

The Assisted Decision-Making (Capacity) Bill 2013 was published on 17 July 2013 and provides a series of options to support people who have difficulties in terms of decision-making capacity to exercise autonomy in decision-making to the greatest extent possible, in line with the principles contained in UN CRPD. Consideration of the Bill by the Oireachtas (Houses of Parliament) began in December 2013.

The Mental Health Act 2001 is currently being reviewed by an Expert Group which was set up by the Minister. The review will introduce a rights based approach to mental health legislation and will prioritise the needs of the person using our services in the first instance. The final report of the Expert Group carrying out the review is expected by the end of March, 2014.

ICCL response:

In its Replies to the List of Issues regarding Ireland's Fourth Periodic Report to the Human Rights Committee, the Government did not report on its plans to review existing mental health legislation.

**Recommendation n°120:** *In line with the recommendations made by CERD, adopt and implement immediately legislation prohibiting any form of racial discrimination and ensure humanitarian treatment for migrants and persons of non-Irish origin, including through adequate training for judicial and police personnel (Recommended by Mexico)*

IRI: *partially implemented*

State of Ireland response:

As mentioned in Ireland's Addendum to the report of the Working Group, existing legislation already provides for prohibition of racial discrimination, and for humanitarian treatment of migrants and persons of non-Irish origin.

With regard to police personnel, An Garda Síochána is committed to providing a professional, well-led and well-managed policing service which is grounded in human rights principles. An Garda Síochána has a comprehensive education, training and information system for the professional development of all members.

See comment under recommendation [n°125] in relation to the Garda Síochána Racial, Intercultural and Diversity Office (GRIDO).

See comment under recommendation [n°48] in relation to treatment of separated children/ unaccompanied minors.

See comment under recommendation [n°115] in relation to the independence of the judiciary.

IHRC response:

The IHRC continues to provide free human rights education and training to limited groups of civil and public civil servants and there remains a pressing need for human rights education and training for Civil Servants to be more fully resourced by the State.

NASC response:

No significant progress on legislative reforms.

Recommendation n°133: *Sign the Council of Europe Convention on Violence against Women and Domestic Violence* (Recommended by Austria)

**IRI: not implemented**

State of Ireland response:

Ireland can accept in principle the terms of the Convention. The detailed provisions of the Convention and the administrative and legislative arrangements that would be necessary to allow signature of the Convention by Ireland are currently being examined.

This is being done in conjunction with the government commitment to consolidate and reform domestic violence legislation to address all aspects of domestic violence, threatened violence and intimidation, in a way that provides protection to victims.

IHRC response:

- The State has not ratified the Council of Europe Convention on Preventing and Combating violence against Women and Domestic Violence and in this context has not provided adequate resources for domestic violence services

NASC response:

Not signed.

ICCL response:

No progression of "administrative and legislative arrangements" as per Ireland's response at the UPR examination - see above regarding CEDAW.

Not referenced in Replies to the List of Issues regarding Ireland's Fourth Periodic Report to the Human Rights Committee, CCPR/C/IRL/Q/4/Add.1).

Recommendation n°135: *Implement the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, otherwise known as the "Bangkok Rules"* (Recommended by Thailand)

IRI: *fully implemented*

State of Ireland response:

The Prison Rules 2007 substantially comply with the Bangkok Rules. The Inspector of Prisons' Standards for the Inspection of Prisons in Ireland – Women Prisoners' Supplement published in February 2011 were also significantly informed by the Bangkok Rules and provide guidance to the Irish Prison Service on best practice in relation to the detention of women prisoners.

In that context too, the Joint Irish Prison Service and Probation Service Strategic Plan 2013 – 2015 contains a commitment for the development of a specific strategy for women offenders which will be delivered during the lifetime of the Plan. The strategy includes:

- Identifying and diverting women at risk of a custodial sentence through greater availability and use of diversion, community sanctions and supports and inter-agency co-operation;
- Strengthening early intervention measures in the community through adopting a co-ordinated multi-agency approach;
- Improving outcomes for women currently in custody; and
- Exploring the potentials of women centric alternatives to custody.

Furthermore, the Penal Policy Review Group was tasked by the Minister to carry out an all encompassing strategic review of penal policy. The group will examine the issue of women prisoners in the criminal justice system and consider alternatives to custody. It is expected that the group will report to the Minister in early 2014.

ICCL response:

Although a number of redress schemes have been established for women and children, effective, comprehensive and independent mechanisms for truth finding and redress for the victims of State and institutional (incl. religious) mistreatment and abuse have not been forthcoming for example in relation to:

- victims of the Magdalene Laundries (see [Irish Human Rights Commission Follow-Up Report on State Involvement with Magdalen Laundries](#), June 2013);
- survivors of involuntary and unnecessary surgical procedures (symphysiotomy and pubiotomy) during childbirth conducted mainly in private hospitals (see [Civil Society Report to the Fourth Periodic Examination of Ireland under ICCPR](#), pages 22 to 25);
- victims of mistreatment and neglect in so-called 'mother and baby' residential care and adoption facilities (see [submission](#) of the Irish Human Rights and Equality Commission (designate) on the Proposed Commission of Investigation to Inquire Into Mother and Baby Homes, July 2014).

Recommendation n°146: *Continue public consultations with NGOs and civil society in the follow-up to the UPR* (Recommended by Austria)

IRI: *partially implemented*

State of Ireland response:

Ongoing. The input from members of the public and civil society in the UPR process has been of immense value and we are keen to continue this worthwhile dialogue, both in the context of the UPR and in the broader domain of human rights policy development.

NASC response:

Some engagement.

ICCL response:

No consultations on UPR have been held as yet (though events have taken place on ICCPR and CRC).

Recommendation n°147: *Consider becoming a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (Recommended by Turkey)

IRI: *not implemented*

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Recommendation n°148: *Consider the possibility of signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (Recommended by Argentina)

IRI: *not implemented*

+



Recommendation n°149: *Consider the possibility of signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (Recommended by Ecuador)

IRI: *not implemented*

+

Recommendation n°150: *Consider the possibility of signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (Recommended by Peru)

IRI: *not implemented*

+

Recommendation n°151: *Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (Recommended by Algeria)

IRI: *not implemented*

+

Recommendation n°152: *Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (Recommended by Egypt)

IRI: *not implemented*

+

Recommendation n°153: *Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and incorporate it into law* (Recommended by Iran)

IRI: *not implemented*

+

Recommendation n°154: *Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and accede to its principles* (Recommended by Mexico)

IRI: *not implemented*

#### IHRC response:

- The State has not taken steps to promote the participation of vulnerable and disadvantaged groups in the workforce, such as migrant workers, including by reforming the work permit system to incorporate freedom to change employers and providing temporary work permits to asylum seekers.
- The State has not introduced stand-alone legislation, to combat Human Trafficking, that defines forced or compulsory labour and servitude as a criminal offence in its own right, and in addition confers a specific mandate on the National Employment Rights Agency to include the detection and prosecution of such offences within their inspection and regulatory powers.
- To combat Trafficking, victims of forced or compulsory labour and servitude should have the opportunity to seek redress through civil law,

whatever their legal status in the State, and be provided with appropriate protection by the State.

ICCL response:

No progress.

Recommendation n°157: *Bring its abortion laws in line with ICCPR (Recommended by Norway)*

*IRI: not implemented*

AI response:

Ireland's abortion laws are still not in line with the ICCPR and Ireland rejected this recommendation.

Irish Family Planning Association (IFPA) response:

We contend that the state has not only not brought its laws into line with the ICCPR, new legislation may involve new violations of the ICCPR. While a new piece of legislation has been introduced (the Protection of Life During Pregnancy Act 2013), the Act retains the exceptionally restrictive legal position whereby abortion is lawful only to save a woman's life (and not to preserve her physical or mental health and wellbeing, nor to allow termination of a pregnancy that is the result of a crime or where a foetus cannot survive outside the womb). The procedural requirements of the Act are complex and it is likely that women whose language is not English, women who are functionally illiterate, minors or women with intellectual disability would encounter extreme difficulty in accessing the services mandated by the Act. Women who seek to access abortion under the Act because of risk of suicide, i.e. women who are exceptionally vulnerable, must undergo an arduous and intrusive assessment process (and in many cases, if a first application is refused, must undergo it twice). The IFPA is concerned that the operation of the Act could be found not to be compliant with the ICCPR. Similar concerns have been raised by the National Human Rights Institute ([Irish Human Rights Commission](#)). Women in Ireland who seek to terminate a pregnancy for reasons other than risk to life must rely on the availability of abortion services in another state, a "solution" which has notable discriminatory impacts (where women cannot travel because of legal/residency status, health, cost or other barriers or endure extreme difficulty, and, especially delay, in travelling to another state) and in some cases, we contend, amounts to cruel, inhuman and degrading treatment.

ICCL response:

Protection of Life During Pregnancy Act 2013 enacted July 2013. However see [ICCL submission](#) to the Committee of Ministers of the Council of

Europe regarding the execution of the A, B and C judgment (which the 2013 Act purports to enact).

*Recommendation n°165: Adopt legislation that prohibits any form of racial profiling and furthermore strengthen its efforts to promote the humane treatment of migrants and people of non-Irish origin by the Garda Síochána and other law enforcement personnel in accordance with international human rights law (Recommended by Azerbaijan)*

**IRI: not implemented**

ICCL response:

See information in response to recommendation 54 and also [Report of the Ombudsman for Children \(July 2014\)](#) which makes recommendations regarding combating ethnic profiling by law enforcement authorities (specific reference to Roma).

*Recommendation n°170: Ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Recommended by Ireland)*

**IRI: not implemented**

NASC response:

Not ratified

ICCL response:

[See response to recommendation n°31]

*Recommendation n°171: Mental capacity legislation for ratification of the Convention on the Rights of Persons with Disabilities was progressing (Recommended by Ireland)*

**IRI: fully implemented**

Centre for Disability Law and Policy (CDLP) response:

Since the UPR report government has published The Assisted Decision-Making (Capacity) Bill 2013, a significant improvement on the Scheme of the Mental Capacity Bill published in 2008, which introduces a number of important reforms – including the opportunity for individuals to make legally binding agreements with others to assist and support them in making their own decisions. Importantly, the guiding principles of the Bill are also clear that interveners must give effect to the will and preferences of the person when making decisions, in so far as is reasonably practicable.

However, further changes are required for it to fully reflect the vision of equality, dignity and respect for human rights contained in international human rights generally, and in the UN Convention on the Rights of Persons with Disabilities (CRPD) in particular. While the Bill represents an important

step forward and provides a number of options for those who wish to use support to exercise their legal capacity, it does so based on a model of mental capacity – meaning that the kind of support a person can use is still based on how the courts view their decision-making ability – rather than giving full recognition to the individual's will and preferences to choose the type of support they desire.

In a response to the Bill, a coalition of civil society groups outlined significant concerns regarding certain provisions of the legislation. The key issue for reform are:

1. Everyone should have the right to benefit from assisted decision making
2. People should have more choice and control in deciding who will assist them with making decisions
3. Informal decision-making could undermine assisted decision making and should be significantly restricted in scope.
4. People should have a real ability to challenge decisions made under the Bill.
5. The Bill must interact with the Mental Health Act and other relevant areas of law.
6. The Bill must provide safeguards for people who are detained against their will, no matter where the detention happens.
7. The Bill must have a strong review clause so that it can be amended to reflect best international practice.
8. The Office of Public Guardian should be renamed to better reflect the purpose of the Bill which is assisted decision-making.

In February 2014 the Department of Health published its General Scheme for Advance Directives – a proposed addition to the Assisted Decision-Making (Capacity) Bill 2013, to be made at Committee stage. This is an opportunity for individuals to provide submissions to the Department on the Scheme, to inform the final version introduced during Committee stage of the Bill.

#### ICCL response:

The Irish government has declared its intention to ratify the ICRPD upon enactment of the Assisted Decision Making (Capacity) Bill 2013. This was presented to the Irish Parliament on 15 July 2013. The Bill has completed two out of five stages in the Lower House and will then proceed to the Upper House.

Recommendation n°172: *Sign the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights before the end of 2011* (Recommended by Ireland)

IRI: *not implemented*

NASC response:

Didn't do it

ICCL response:

Not completed

Recommendation n°177: *Legislation was being prepared to enable ratification of the Optional Protocol to the Convention against Torture* (Recommended by Ireland)

IRI: *not implemented*

CDLP response:

Ireland has yet to ratify the Optional Protocol to the Convention against Torture. Ireland submitted its Interim UPR Report to the 25th Session of the UN Human Rights Council (March, 2014). The Government reported that "Ireland intends to proceed to ratification of the Convention as quickly as possible [...].An Interdepartmental Committee on the Convention is monitoring the remaining legislative and administrative actions required to enable ratification". The government has yet to comment on forced psychiatric treatment which, in the opinion of the UN Special Rapporteur on Torture, can constitute a violation of the Convention. We reiterate our call that recommendations to enhance effective domestic monitoring of human rights compliance be implemented rapidly - and that the government make a specific commitment to abolish forced psychiatric interventions (including involuntary detention and treatment, non-consensual administration of electro-convulsive therapy and psycho-surgery).

NASC response:

Still not introduced

ICCL response:

Legislation not forthcoming - see response to recommendation 15.

Recommendation n°181: *Ireland has chosen to prepare and submit a voluntary interim report on Ireland's progress in implementing its commitments* (Recommended by Ireland)

IRI: *fully implemented*

NASC response:

Done

ICCL response:  
Completed

## Justice

Recommendation n°67: *Take effective measures to improve prison conditions* (Recommended by Algeria)

IRI: *fully implemented*

State of Ireland response:

The Irish Prison Service Three Year Strategic Plan 2012 – 2015 includes a 40 month capital expenditure plan which contains a significant programme of works to improve prison conditions. Over the lifetime of the capital plan, the Irish Prison Service will provide in-cell sanitation in all remaining areas of the prison estate, providing a W/C and wash hand basin in every locked cell. This will be achieved inter alia, through the construction of a replacement prison in Cork, the complete refurbishment of Mountjoy prison and the replacement of two Victorian wings in Limerick Prison.

IHRC response:

- The State has taken steps to improve prisoner conditions including the basic training of Prison Officers in human rights in conjunction with the IHRC. However it has yet to fully end the practice of 'slopping-out'.
- Although the Inspector of Prisons' mandate has been expanded, the State has yet to take steps towards the ratification of OPCAT and establishment or designation of a National Preventative Mechanism that meets the Paris Principles requirements of independence, expertise and resources to ensure oversight of places of detention in Ireland.
- There is still a failure to fully separate sentenced and remand prisoners.
- An independent Prisoner Ombudsman is still to be established to investigate individual complaints made by prisoners in relation to their treatment while in prison.

IPRT response:

Partially implemented. The Irish Prison Service committed to eliminating the practice of slopping out in Irish prisons within 40 months in its 'Three Year Strategic Plan 2012-2015', published April 2012. Works to install in-cell sanitation in all wings of Mountjoy Prison in Dublin are expected to be completed during 2014; building work on a new prison to replace Cork Prison commenced in January 2014; and plans are at an advanced stage to replace two older wings in Limerick Prison, with work expected to



commence late 2015. All cells in the new prison in Cork will have in-cell sanitation. However, recent numbers published indicate that 334 prisoners still slop out in Irish prisons and 6 out of 14 prisons routinely house prisoners beyond what has been described as their maximum capacity by the inspector of Prisons. It is also extremely concerning that elimination of slopping out in Portlaoise Prison was publicly described as "capital dependent" by the Director General of the Irish Prison Service in March 2014. Both the UN Human Rights Committee (HRC) and the UN Committee against Torture (CAT) have stated that, in certain cases, prolonged solitary confinement of imprisoned persons can amount to a breach of the prohibition on inhuman and degrading treatment. While there has been a significant reduction in the numbers of prisoners on restricted regimes, recently published figures indicate that 177 prisoners remain on 21-23 hour lock up on 1 April 2014.

*Recommendation n°69: Improve conditions for detainees in Irish prisons to bring them in line with international standards (Recommended by Australia)*

*IRI: fully implemented*

State of Ireland response:

See responses to recommendations [n°67] and [n°68].

IHRC response:

[See response to recommendation n°67]

IPRT response:

Partially implemented (See more detailed reply above, recommendations 67 and 68).

*Recommendation n°70: Continue its efforts to incorporate in-cell sanitation in all prison facilities (Recommended by United States)*

*IRI: fully implemented*

State of Ireland response:

See responses to recommendations [67] and [68]

IHRC response:

[See response to recommendation n°67]

IPRT response:

Partially implemented. Progress has been made in the reduction of slopping-out in the Irish prison system. On 14 January 2014, 465 prisoners (11.7%) were required to slop out and 1,628 prisoners (40.9%) were required to use the toilet in the presence of another prisoner. Only 1,880 (47.3%) prisoners were in a single cell with a flush toilet or had access to

toilet facilities in private at all times. On 1 April 2014, there were 334 men slopping out in the Irish prison system: 226 prisoners in Cork Prison, 46 in Limerick Prison and 59 prisoners in Portlaoise Prison.

The Irish Prison Service committed to eliminating the practice of slopping out in Irish prisons within 40 months in its 'Three Year Strategic Plan 2012-2015', published April 2012. Works to install in-cell sanitation in all existing wings of Mountjoy Prison in Dublin are expected to be completed during 2014; building work on a new prison to replace Cork Prison commenced in January 2014; and plans are at an advanced stage to replace two older wings in Limerick Prison, with work expected to commence late 2015. All cells in the new prison in Cork will have in-cell sanitation. However, the elimination of slopping out in Portlaoise Prison was described as "capital dependent" by the Director General of the Irish Prison Service in March 2014.

*Recommendation n°72: Take effective measures as soon as possible in order to avoid overcrowding in prisons and other detention facilities, in line with the Standard Minimum Rules for the Treatment of Prisoners (Recommended by Austria)*

*IRI: fully implemented*

#### State of Ireland response:

The Irish Prison Service is committed to taking effective measures to reduce overcrowding in prisons and other detention facilities, in line with the UN Standard Minimum Rules for the Treatment of Prisoners. It is intended to align the capacity of our prisons in line with the guidelines laid down by the Inspector of Prisons by 2014 in so far as this is compatible with public safety and the integrity of the criminal justice system. Significant investment has taken place in our prison estate in recent years with in excess of 900 new prison spaces having been constructed and brought into use since 2007. Furthermore, the Irish Prison Service has commenced the roll out of the Community Return Scheme, an incentivised scheme for earned temporary release under which offenders who pose no threat to the community are offered early temporary release in return for supervised community service.

#### IHRC response:

[See response to recommendation n°67]

#### IPRT response:

Partially implemented. Measures introduced to address prison-crowding have seen the prison population reduced from a peak of over 4,500 in 2011 to 4,004 on 27 May 2014. While there has been a small reduction in prison

committals and the daily prison population, over-crowding persists in a number of prisons. On 27 May 2014, the two women's prisons, the Dóchas Centre in Dublin and Limerick Female Prison were operating at 116% and 104% of bed capacity. Limerick Male Prison and Cork Prison are operating at 109% and 113% of bed capacity respectively. Conditions are particularly adverse in Cork Prison, where prisoners have to share small cells and have no access to in-cell sanitation.

*Recommendation n°73: Give due attention to the results of the expert group examining the possibility of the construction of a new prison (Recommended by Austria)*

*IRI: fully implemented*

State of Ireland response:

The Government Programme for National Recovery 2011–2016 (Programme for Government) committed the new Government “to review the proposal to build a new prison at Thornton Hall and to consider alternatives, if any, to avoid the costs yet to be incurred by the State in building such a new prison”.

On 5th April 2011, on foot of that commitment, the Minister for Justice and Equality, Mr. Alan Shatter, T.D. set up a Review Group to review the need for the Thornton Hall Prison Project.

The Minister published the Thornton Hall Review Group Report in July, 2011 and confirmed that the Government approved in principle the Report's recommendations. The Report recommended that a new prison with 300 cells capable of accommodating 500 prisoners be developed at Thornton Hall, and that Cork Prison be closed at the earliest possible opportunity and a new prison developed at Kilworth, Co. Cork, with 200 cells capable of accommodating up to 350 prisoners.

While financial constraints have not allowed the Prison Service to proceed with the construction of Thornton Hall or Kilworth prisons, a decision was taken to build a new prison in Cork to replace the substandard prison accommodation in the existing prison and provide a modern prison facility designed on the principle of rehabilitation and resettlement. The new prison, including cells with full in-cell sanitation and showering facilities, will end the practice of slopping out and also provide a vastly better infrastructure necessary for the education and rehabilitation of prisoners thus enhancing public safety. All cells in the new facility will have full in-cell sanitation.

In addition, all wings in Mountjoy prison are being upgraded to provide in-cell sanitation. Once this work is completed, slopping out will have been eliminated in Mountjoy prison.

IHRC response:

[See response to recommendation n°67]

IPRT response:

Partially implemented. A number of the expert group's recommendations from the Thornton Hall Review Group Report published in 2011 were accepted and acted upon, including: a clear acknowledgment that prison building will not address overcrowding; the improvement of prison conditions in Mountjoy Prison; the introduction of an incentivised early release programme; progress towards ending the detention of children in St Patrick's Institution; and the establishment of a Strategic Review of Penal Policy, which is due to report by summer 2014.

Recommendation n°74: *Increase the use and promotion of alternative, non-custodial measures* (Recommended by Austria)

IRI: *partially implemented*

State of Ireland response:

Alternatives to custody are being pursued. The Oireachtas has already legislated to require judges to take a person's financial circumstances into account when setting a fine. The Fines (Payment and Recovery) Bill was published on 19 July last and recently passed second stage in the Dáil.

The Bill provides for the imposition of community service orders where a person fails to pay a fine and the court is of the view that it would not be appropriate to make either an attachment order or a recovery order. The Bill also provides for an enhanced instalment payment regime which will allow everyone on whom a fine is imposed to pay the fine by instalments over 12 months.

In addition, the Criminal Justice (Community Service) (Amendment) Act, 2011 requires judges when considering imposing a sentence of imprisonment of 12 months or less to first consider the appropriateness of community service as an alternative to imprisonment. It is expected that these measures, taken together, will all but eliminate the need to commit persons to prison for non-payment of fines. Furthermore, the Probation Service continues to provide and promote maximum use of community sanctions in Ireland in Courts and after custody and also works with partner services to achieve rehabilitation of offenders and the reduction of offending.

The innovative pilot Community Return Scheme, a joint Probation Service and Irish Prison Service initiative, provides a structured community alternative whereby suitably assessed prisoners, serving sentences of at least one year and who have completed half their sentences, are granted reviewable temporary release conditional on them performing unpaid supervised community work.

The Community Return Scheme has been a very positive development, and as well as allowing prisoners to complete their sentence by way of performing a service to the community, has significantly helped these prisoners to successfully resettle in their communities. There were 396 participants in the Scheme in 2013.

In September 2012, the Minister for Justice and Equality announced the establishment of a working group to conduct a strategic review of penal policy. The Review Group has been asked to carry out an all encompassing strategic review of penal policy incorporating an examination and analysis of all aspects of penal policy including prevention, sentencing policies, alternatives to custody, accommodation and regimes, support for reintegration and rehabilitation and any special issues relating to female offenders and prisoners. The Group has been asked to make recommendations as to how a principled and sustainable penal system might be further enhanced taking into account resource implications, constitutional imperatives and international obligations. The Review Group, under the Chairmanship of Mr. Michael Whelan, is nearing the completion of its discussions and it is expected that the Minister will receive the final report of the Group within the next few months.

In February 2014, the Minister for Justice, Equality and Defence published the General Scheme of the Criminal Justice (Community Sanctions) Bill 2014. This new legislation will replace the Probation of Offenders Act 1907 with modern provisions dealing with community sanctions and the role of the Probation Service in the criminal justice system. It will facilitate the effective and efficient use of community sanctions by the courts and will ensure that the courts have a wide range of appropriate options for dealing with persons who have committed minor offences. This should help to reduce the numbers of people unnecessarily imprisoned for minor offences. The legislation will take full account of the interests of victims of crime by making it a statutory requirement for the courts to have regard to the interests of victims when making decisions about community sanctions. The legislation will also abolish the Court Poor Box, as recommended by the Law Reform Commission, and replace it with a fair, equitable and

transparent system of reparation that will apply only to minor offences dealt with by the District Court. The new Reparation Fund will be used to provide additional funding for essential victim support services and to the state funded victim compensation scheme.

IHRC response:

[See response to recommendation n°67]

IPRT response:

Partially implemented. Ireland has one of the highest rates of prison committals in Europe due to its over-reliance on short sentences and on imprisonment for fines default. Almost 90% of sentenced committals in 2013 were for sentences of less than 12 months, despite legislation introduced in 2011 requiring judges to consider community service orders in lieu of custodial sentences of less than 12 months. There were 8,121 committals to prison for fines default in 2013; of these, 1,894 were female committals. There was an overall increase of 36.4% from 2011 to 2013 in the number of female sentenced committals.

Legislation intended to end imprisonment for fines default was passed in April 2014, and is expected to be fully commenced by early 2015. The Fines (Payment and Recovery) Bill provides for the imposition of community service orders where a person fails to pay a fine or it is deemed inappropriate to make either an attachment order or a recovery order. It is hoped that the General Scheme of the Criminal Justice (Community Sanctions) Bill 2014 should facilitate the effective and efficient use of community sanctions by the courts and ensure a wide range of appropriate options for dealing with minor offences.

*Recommendation n°75: Continue its effort to secure satisfactory sanitary facilities in Irish prisons, including in-cell sanitation, and to mitigate overcrowding (Recommended by Denmark)*

*IRI: fully implemented*

State of Ireland response:

Please see responses to recommendations [67] and [68].

IHRC response:

[See response to recommendation n°67]

IPRT response:

Partially implemented. (See more detailed reply above, Recommendations 67, 70 and 72)



Recommendation n°77: *Carry out all efforts to reduce overcrowding in prisons and to ensure that imprisonment is a measure of last resort* (Recommended by Spain)

IRI: *partially implemented*

State of Ireland response:

Please see responses to recommendations [67], [68] and [74]

IHRC response:

[See response to recommendation n°67]

IPRT response:

Partially implemented. (See more detailed reply above, Recommendations 72 and 74).

Recommendation n°78: *Continue with the implementation of measures to improve adverse conditions in prisons, in particular the renovations required to improve the health situation in prisons and effective programmes for education and rehabilitation of prison inmates* (Recommended by Peru)

IRI: *fully implemented*

State of Ireland response:

The Irish Prison Service Three Year Strategic Plan 2012 – 2015 outlines a significant programme of capital works to improve prison conditions. The Irish Prison Service also provides a wide range of rehabilitative programmes that include education, vocational training, healthcare, psychiatric, psychological, counselling, welfare and spiritual services. Renovations are carried out where necessary.

IHRC response:

[See response to recommendation n°67]

IPRT response:

Partially implemented. The development of Integrated Sentence Management (ISM) and the delivery of prison-based rehabilitative programmes such as education, work training and resettlement programmes, forms a central part of the Irish Prison Service Three Year Strategic Plan 2012-2015. At the end of April 2013, there were over 2,300 current and active cases within the Integrated Sentence Management scheme. This extensive caseload is currently being managed by sixteen ISM Co-ordinators in place in ten institutions. This highlights a significant lack of resources as just sixteen ISM Co-ordinators manage over 2,300 current and active cases. At present, there are currently no ISM Co-ordinators in Cork Prison, Shelton Abbey Prison, Limerick Male and Limerick Female Prison.

Expenditure on work training and educational services within the Irish Prison Service budget has decreased significantly since 2006, from €3.037m in 2006 to €2.077m in 2012. The numbers of prisoners participating in accredited vocational training courses increased from 314 in 2007 to 1,459 in 2012. However, the Inspector of Prisons has urged caution in the treatment of these figures, and has called for vigilance by prison management to ensure that there is no double counting.

**Recommendation n°79:** *Complete the review of prison conditions in order to increase the quality of the prison management system* (Recommended by Indonesia)

IRI: *partially implemented*

State of Ireland response:

See responses to [n°67], [n°68], [n°72], [n°73] and [n°78].

IHRC response:

[See response to recommendation n°67]

IPRT response:

Partially implemented. (See more detailed reply above, Recommendations 68 and 73)

**Recommendation n°115:** *Develop provisions of a training programme to raise the awareness of the judiciary to the racial dimension of crime and to ensure that judges take into account racist motivation as an aggravating circumstance when they sentence in criminal cases* (Recommended by Uruguay)

IRI: *partially implemented*

State of Ireland response:

Ireland's position with regard to the independence of the judiciary has been detailed in the Addendum to the Report of the Working Group.

The Committee for Judicial Studies (formerly the Judicial Studies Institute) has confirmed that members of the judiciary attend training events in relation to racism on an ongoing basis.

NASC response:

No action taken.

ICCL response:

This has not been developed.

Recommendation n°130: *Activate efforts to improve the living conditions of detainees pretrial and after conviction and also to implement all the requirements of minimum standards of treatment of inmates (Recommended by Uzbekistan)*

IRI: *fully implemented*

State of Ireland response:

See response to recommendation [n°78].

The training of prison service staff in this State places a large emphasis on human rights and appropriate behaviour towards prisoners. In addition to the Prison Rules 2007 which of themselves reflect international best practice and the European and UN Prison Rules where the administration of prisons is concerned, all Recruit Prison Officers complete an accredited two year Higher Certificate in Custodial Care programme.

Staff members are made fully aware that any form of ill-treatment of prisoners, including verbal abuse, is not tolerated. The Irish Prison Service will continue to deliver this message. All allegations of ill-treatment are thoroughly investigated and if warranted, disciplinary measures against staff follow. The Prison (Disciplinary Code for Officers) Rules, 1996 and the Prison Rules, 2007 address this issue.

Recommendation n°164: *Consider adopting measures to prohibit any form of racial profiling by police and law enforcement officials (Recommended by Brazil)*

IRI: -

ICCL response:

See information in response to recommendation 54 and also [Report of the Ombudsman for Children \(July 2014\)](#) which makes recommendations regarding combating ethnic profiling by law enforcement authorities (specific reference to Roma).

## SOGI

Recommendation n°140: *Further reform the law on same-sex marriage and change the concept of the traditional family as enshrined in the Constitution (Recommended by Spain)*

IRI: *not implemented*

State of Ireland response:

Ongoing.

In April 2013, 79% of members of the Constitutional Convention, which was tasked to look at this issue, voted in favour of amending the Constitution to allow for same sex marriage.

On foot of the recommendation by the Convention on the Constitution, the Government decided in November 2013 to authorise the necessary work to prepare for a constitutional referendum on equal marriage for same-sex couples. The referendum is intended to take place in the first half of 2015.

The Convention also recommended a Constitutional amendment to change the clause on the role of women in the home. The Minister for Justice and Equality has established a task force to prepare options for an amendment to the Constitution in that regard.

Gay Lesbian Equality Network (GLEN) response:

A Constitutional Convention was established by the current Government to deliberate on a range of issues including same-sex marriage, and issue recommendations to Government. The Convention addressed marriage in April 2013 and overwhelmingly voted to recommend to the Government to propose a referendum on marriage, and further, to enact legislation that would recognise and protect lesbian and gay headed families. The Government responded to the Convention's recommendations in a Cabinet decision in November 2013, accepting the recommendations and deciding to hold a referendum on same-sex marriage in 2015. The Government at the same time also announced their decision to bring forward a Children and Family Relationships Bill that aims to put in place a legal architecture to underpin diverse parenting situations (including lesbian and gay-headed families) and provide legal clarity on parental rights and responsibilities for these families. The Government and the Minister for Justice expect to have this Bill enacted by the end of 2014, in advance of the referendum in 2015. The Dáil (lower house of Parliament) debated the Constitutional Convention's recommendations in December 2013 and all Parties spoke in favour of marriage in the proposed referendum. In February 2014, the Government published the Draft Scheme of the Children and Family Relationships Bill, and announced that the Oireachtas (Parliament) Committee on Justice, Equality and Defence would hold public consultations on the Bill prior to Easter 2014.

ICCL response:

Government Commitment to referendum on same-sex marriage - due to be held in Spring 2015 (see [more information [here](#)]).

Recommendation n°141: *Amend Article 37 of the 1998 Employment Equality Act in order to prevent such discrimination against homosexuals and unmarried parents* (Recommended by Switzerland)

IRI: *not implemented*

State of Ireland response:

Acting on a request from the Minister for Justice and Equality to the members-designate of the Irish Human Rights and Equality Commission, the Commission is currently carrying out a public consultation on the potential impact of section 37 of the Employment Equality Act 1998 on lesbian, gay, bisexual and transgender persons and a formal assessment of the options for its amendment.

AI response:

To date Section 37 of the Employment Equality Act has not been amended. This Act also discriminates against Atheists. The Irish Human Rights and Equality Commission Designate has just released their Recommendations to amend this legislation to bring it into line with the EU Equality Directive.

GLEN response:

The current Programme for Government, negotiated between Fine Gael and Labour has commitment that "People of non-faith or minority religious backgrounds and publically identified LGBT people should not be deterred from training or taking up employment as teachers in the State." Opposition Senator Averil Power introduced a Bill into the Seanad (upper house) in May 2012. Despite support from all Parties, and support for the principle of the Bill from the Minister for Justice and the Minister for Education, the Bill was voted down by the Government Parties. A subsequent Bill was proposed by the Labour Party in the Seanad in March 2013. This Bill was accepted by the Government and progressed to the next Stage. The Minister for Justice, speaking in the debates, undertook to refer the Bill to the Irish Human Rights and Equality Commission (IHREC) (currently being formed as a merger of the Equality Authority and the Irish Human Rights Commission) to conduct a public consultation on the issue and elaborate on any legal or constitutional issues that may arise, and to bring forward any amendments necessary to the proposed Bill. The IHREC conducted a public call for submissions in November 2013. The outcomes of their consultations and analysis are not yet available.

ICCL response:

In April 2014, the Irish Human Rights and Equality Commission (Designate) submitted a report on the review undertaken by the Equality Authority into the operation of Section 37(1) of the Employment Equality Acts 1998 – 2011.<sup>65</sup> The Commission recommended reform of Section 37(1) which

permits certain medical and educational institutions with a “religious ethos” to make hiring and firing decisions based on whether the employees or prospective employees may be considered as “undermining” the religious ethos of the institution, including in relation to grounds other than religion (e.g. civil status, sexual orientation).

It is expected that the Oireachtas (Parliament) will consider the proposed options recommended in the Commission’s report as it debates a Bill to amend Section 37 of the Employment Equality Acts.

## Women & Children

Recommendation n°40: *Implement its commitment to holding a constitutional referendum on children's rights with a view to incorporating those rights into the Irish Constitution (Recommended by Australia)*

IRI: *fully implemented*

### State of Ireland response:

A referendum to amend the Constitution to acknowledge and affirm the rights of children was passed on 10 November 2012.

A challenge to the Provisional Referendum Certificate was lodged in the High Court and was unsuccessful. However, this matter has been appealed to the Supreme Court which has indicated it will hear the appeal early in 2014.

The matter of referring the Referendum Bill to the President for signing into law, and to give effect to the Constitutional changes concerned, must await determination by the Courts of the issues raised in the legal challenge made.

### IHRC response:

- The State has not yet ratified a number of the instruments it undertook to ratify in 2011.
- The State has sought to introduce one limited constitutional amendment, to provide for enhanced children’s rights, in respect to Article 19 of the Convention on the Rights of the Child (presently under legal challenge).
- The State has established a Constitutional Convention but not formally referred the matter of the incorporation of ratified treaty rights into domestic law for its consideration.



Children's Rights Alliance (CRA) response:

On 10 November 2012, a referendum to strengthen the constitutional rights of children was held and the People of Ireland voted 58% to 42% in favour. The outcome of the referendum was challenged and the challenge case is currently waiting to be heard by the Supreme Court. This means that the constitutional amendment has not yet been written into law. For more information, see [Report Card 2014](#).

Irish Society for the Prevention of Cruelty to Children (ISPCC) response:

On November the 10th 2012, the Irish people were given a historic opportunity to ensure that children in Ireland are better protected, respected and heard. This momentous day saw the holding of the much anticipated Children's Referendum and resulted in a vital Yes vote which will change the landscape for children in Ireland. The people of Ireland voted to prioritise, protect and listen to children, to make it possible for some children to have a second chance to grow up in a loving and stable family and to ensure that decisions being made in care and family law proceedings about children's lives, be based on the best interest of the child. The Referendum result is currently being appealed in the Supreme Court and a decision is expected in the coming months.

NASC response:

Referendum was held and new legislation and departmental agency introduced to protect the rights of children.

ICCL response:

Although the Thirty-First Amendment Bill (the Children's Referendum) was passed by referendum in 2013, a judicial challenge to the process has effectively frozen the process of implementing the referendum result. The appeal to the Supreme Court, which will be heard in 2014, means that no law reform can take place to implement the referendum result until the case is decided.

Recommendation n°48: *Enact laws that protect adequately the rights and the well-being of separated and unaccompanied minors seeking asylum, in conformity with standards established under international laws* (Recommended by Uruguay)

IRI: *partially implemented*

State of Ireland response:

The immediate and the ongoing needs of unaccompanied minor asylum seekers relating to accommodation, medical and social needs, as well as their application for refugee status, are the responsibility of the Health

Service Executive in accordance with the Refugee Act 1996 (as amended) and the Child Care Act 1991 (as amended).

The Refugee Act 1996 (Asylum Procedures) Regulations 2011 further provides for the best interests of unaccompanied minors by setting out certain procedures which the Refugee Applications Commissioner must ensure are followed before, during and after the personal interview of a minor. These procedures specifically relate to the special needs of minors and the requirement that officers involved in the process possess the necessary knowledge relating to such special needs.

CRA response:

It is hoped that forthcoming and long-overdue legislation on immigration will address these issues. The Immigration, Residence and Protection Bill is due to be published in 2013, but has not yet been published. Preparations for this piece of legislation were first carried out as far back as 2001.

ISPCC response:

NGOs and groups have campaigned to redress the imbalance in how separated children, a particularly vulnerable group are treated and cared for. These separated children should be treated as children first, while their immigration status should be considered as secondary. There have been a number of calls for the concept of separated children to be introduced into Irish law and with it the introduction of broad protections for such children. These issues should be addressed in the Immigration, Residence and Protection Bill 2010 which has stalled progress in recent years. While progress has been made regarding the treatment of separated children, the ISPCC continues to be concerned about children living in Direct Provision. We will continue to monitor and lobby on this issue.

NASC response:

New children's rights legislation and constitutional referendum will hopefully address - though do not explicitly reference - separated children and aged out minors. More needs to be done.

IRC response:

The framework for the protection of the rights and well-being of separated children can be found within mainstream child care law in Ireland, without specific reference to this demographic. Welfare safeguards are provided for within the Child Care Act 1991, as amended.

In February 2011 Statutory Instrument No. 52 of 2011 Refugee Act 1996 (Asylum Procedures) Regulations 2011 (which transposed Council Directive

2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status) was passed in to law. The SI included provision on unaccompanied minors, but specifically relating to the Refugee Applications Commissioner's duty to consider the best interest of the child plus additional interview safeguards.

#### ICCL response:

The Immigration, Protection and Residence Bill which, when it is introduced, will regulate the asylum and immigration system in Ireland, does not include protections for unaccompanied and separated minors. On 11 February 2014, in response to a Parliamentary Question, the former Minister for Justice and Equality [stated](#) that "work on the Immigration, Residence and Protection Bill, which remains part of the Government's Legislation Programme, will be advanced to enable the publication of a new and enhanced version of the Bill later this year" (2014).

Recommendation n°51: *Continue action including legislation to remove gender-based inequalities in the workplace, including wage disparities between men and women* (Recommended by Sri Lanka)

IRI: *fully implemented*

#### State of Ireland response:

Ongoing.

Ireland continues to implement the National Women's Strategy 2007 – 2016 which contains a clear vision to:

- Equalise socioeconomic opportunity for women;
- Ensure their well-being; and
- Engage women as equal and active citizens

There has been a steady if small fall in the Irish gender pay gap in recent years. The latest available figures on the gender pay gap released by the European Commission to coincide with Equal Pay Day 2013, shows that the gap in Ireland stands at 13.9% (2010). This leaves Ireland ranked twelfth out of the 27 EU States and better than the EU average of 16.2 %.

In response to the recognised gender pay gap that exists, the Irish Business & Employers' Confederation (IBEC) with the support of the Equality Authority developed a gender pay audit template in 2011/2012 to assist business organisations to carry out an equal pay measurement.

A working group chaired by Minister of State Kathleen Lynch T.D. has been specifically addressing the advancement of women in leadership roles, including in politics, management, on Boards, and in the diplomatic and

judicial systems. Its report, along with recommendations for action, will be presented to Government shortly.

The report's recommendations, when implemented, are intended to better foster women's engagement and advancement in the labour market. This will help to maximise the contribution of Ireland's highly educated females both to the workforce and in decision-making and leadership roles and go towards achieving the Europe 2020 employment target.

IHRC response:

- Article 41.2 of the Irish Constitution continues to perpetuate stereotypical attitudes towards the role of women in Irish society and is a matter of priority and a specified timeframe for its replacement or amendment needs to be put in place.
- The State still needs to expand the definition of equality in Irish law. In particular, Article 40.1 of the Constitution should be amended to guarantee equality to all and to proscribe discrimination (direct or indirect) in any area of law and practice on non-exhaustive grounds.

ICCL response:

A Report from the European Commission "Tackling the Gender Pay Gap in the European Union" has shown that Ireland gender pay gap currently stands at 14.4%. In fact, the gender pay gap has worsened for Irish women in recent years, "with their pay being 94% of men's earnings on average in 2011 back to 85.6% now — the same as it was in 2006" (see [\[article\]](#)). Report is available here: [European Commission \(2014\)](#). Ireland's Fourth Periodic Report under the ICCPR (July 2012) provides the following information on the gender pay gap: "The gender pay gap, an indicator calculated by Eurostat, shows that the inequality in pay between men and women in Ireland has reduced from 17.1 per cent in 2007 to 15.7 per cent in 2009. The Gender Pay Gap in Ireland in 2009 of 15.7 per cent was below the EU average Gender Pay Gap of 17.1 per cent" (at para 91). Ireland's Third Periodic Report under ICESCR (May 2012) states the following with respect to the gender pay gap: "It is estimated that there is a gender pay gap of some 11% between women and men working in Ireland at present, compared with 22% in Ireland in 1999. However, as the Central Statistics Office points out in "Women and Men in Ireland 2006", persons working fifteen hours or fewer are excluded from this indicator and that these persons are more likely to be female and persons on lower incomes.

It is likely that the introduction of the National Minimum Wage has impacted very positively on women. Prior to its introduction, women were traditionally more likely to have received very low wages if they were working in the

sectors which were predominantly female. While the narrowing of the gender pay gap cannot be attributed solely to the introduction of the National Minimum Wage, it is worth noting that the gap was 22% in 1999, the year prior to the introduction of the National Minimum Wage and (using the same statistical series) has now apparently narrowed to about 11% in 2004. The report of the Consultative Group on male/female wage differentials informs a range of Government policies (including childcare, equality legislation, education, tax reform and employment rights) aimed at reducing the gender pay gap and occupational segregation. The biggest root cause of this disparity is the time women take out of the workforce. To address this, Government policy is focused on facilitating access to affordable, quality childcare services for parents and work/life balance. (paras 161, 162 and 163)

**Recommendation n°52: *Take additional measures to eliminate inequalities between women and men* (Recommended by Moldova)**

*IRI: fully implemented*

State of Ireland response:

As mentioned above in response to recommendation [n°51], the National Women's Strategy 2007–2016, the implementation of which is monitored annually, addresses all the key elements to equalize socioeconomic opportunities for women, ensure their well-being and engage them as equal and active citizens.

IHRC response:

- Article 41.2 of the Irish Constitution continues to perpetuate stereotypical attitudes towards the role of women in Irish society and is a matter of priority and a specified timeframe for its replacement or amendment needs to be put in place.
- The State still needs to expand the definition of equality in Irish law. In particular, Article 40.1 of the Constitution should be amended to guarantee equality to all and to proscribe discrimination (direct or indirect) in any area of law and practice on non-exhaustive grounds.

ICCL response:

For gender pay gap see [recommendation] 51. Also refer to Convention on the Constitution (Information available [\[here\]](#)) which recommended that the Government bring forward a referendum on amendment to Article 41.2 of the Constitution (Role of Women) which states:

"In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved. The State shall, therefore, endeavour to ensure that mothers

shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home".

Although presently this clause is largely symbolic it continues to perpetuate “traditional attitudes toward the restricted role of women in public life, in society and in the family”, as noted by the Human Rights Committee during Ireland's Third Periodic Examination in 2008 (para 10). One of the priority tasks of the Convention on the Constitution has been consideration around greater participation of women in public life and the role of women in the home. In February 2013, in its second report to Government, the Convention recommended that the Government replace the ‘women in the home’ clause with a gender neutral clause valuing care work in Irish society. The Convention also recommended a number of other measures, including modifications to the electoral system and changes in political education in schools, which would enhance the participation of women in public life. However, no political commitment has been made yet regarding the holding of a referendum on the issue (The Convention on the Constitution, (May 2013), Second Report of the Convention on the Constitution, available [here](#)).

Recommendation n°80: *Continue to strengthen its policies and laws against domestic violence* (Recommended by Algeria)

IRI: *partially implemented*

State of Ireland response:

Work in this area is ongoing.

A wide range of sanctions is available under Irish criminal law to deal with domestic violence-related offences. As well as homicide-related offences, the law on general interpersonal violence is mainly contained in the Non-Fatal Offences Against the Person Act, 1997. The Act makes no distinction between victims who do or do not have children or between those who are, or are not married to the offender.

The civil law also provides a number of remedies in cases of domestic violence. A person may apply for a safety order or a barring order whether they are married to a civil partner of, or living with, a respondent. The legislation does not mandate different treatment on the basis of whether an applicant living with the respondent has a child or children with the respondent.

In June 2007, Ireland established Cosc, the National Office for the Prevention of Domestic, Sexual and Gender-based Violence, to raise awareness of the nature and extent of domestic, sexual and gender-based violence in Ireland and of services available to help those who experience



these crimes. Cosc has responsibility for the funding of domestic violence perpetrator intervention programmes. These programmes aim to modify the behaviour of perpetrators of domestic violence and in doing so protect the victims of domestic violence.

IHRC response:

The State has not ratified the Council of Europe Convention on Preventing and Combating violence against Women and Domestic Violence and in this context has not provided adequate resources for domestic violence services.

CRA response:

Corporal punishment by parents or other family members is not prohibited by law in Ireland with the common law defence of 'reasonable chastisement' being available in family and care settings. This is in spite of calls from the UN Committee on the Rights of the Child, the European High Commissioner for Human Rights and the national Special Rapporteur on Child Protection. The Children's Rights Alliance will be involved in a campaign to legislate for the outright prohibition of corporal punishment in the latter part of 2014.

NASC response:

Some improvement in commitment to review of existing domestic violence legislation and parliamentary review of legislation.

ICCL response:

A 2012 European survey on violence against women had found that in Ireland 14% of women have experienced physical violence by a partner (current or ex) 6% of women have experienced sexual violence by a partner (current or ex) 31% have experienced psychological violence by a partner (current or ex) (FRA gender-based violence against women survey dataset 2012 available [\[here\]](#)). NGOs providing services to women experiencing domestic and sexual violence are witnessing an unprecedented growth in demand for their services. Rape Crisis Centres have seen a relentless year on year increase in demand for their services. In 2012 there was a 12% increase from 2010 in survivors and others seeking counselling and support from their specialist services and over 28,000 helpline contacts in 2011 alone (Rape Crisis Network Ireland: [National Rape Crisis Statistics and Annual Report November 2012](#)). Dublin Rape Crisis Centre also report more than 9,000 calls in 2012, a 23% increase in first time callers of which 88% were women. DRCC Annual Report launched 24th July 2013). Services for violence against women have been chronically underfunded for years. This situation has reached crisis point as there have been additional

cuts to funding since the recession began in 2008 so more and more women are not being accommodated in refuges or are on waiting lists for support services (Safe Ireland: [Lifelines to Safety: A National Study of Support Needs and Outcomes for Women Accessing Domestic Violence Services in Ireland](#), July 2011). Refuge provision remains inadequate and many women and children are unable to access refuge accommodation each year. In 2012, 3,470 requests for refuge could not be met because the refuge was full (Safe Ireland, [Safety in a time of crisis](#), 2014). Current legislation on domestic violence (Domestic Violence Act 1996 as amended by the Civil Law (Miscellaneous Provisions) Act 2011) does not deal with the realities of the many different types and forms of relationships in Ireland today. Despite the extension of eligibility for orders in the Civil Law (Miscellaneous Provisions) Act 2011, the law still does not provide for women in dating relationships which means that Safety are not available to parties who are or have been in an intimate relationship.

The legal framework does not provide for emergency barring orders to ensure immediate protection during out-of-hours times. There is a clear need for orders to be available outside of traditional Court hours, so that victims of domestic violence do not find themselves without protection for extended periods of time. A specific offence of stalking should be introduced in Irish law and stalking should be recognised as a ground to apply for a Safety Order, even in the absence of a criminal conviction.

The 2002 baseline prevalence study on sexual violence, the Sexual Abuse and Violence in Ireland (SAVI) Report has been a key informant of Irish policy in relation to sexual violence; however, updated data is urgently required.

**Recommendation n°81: *Strengthen its policies and laws against domestic violence towards women* (Recommended by Moldova)**

**IRI: *partially implemented***

State of Ireland response:

Ongoing.

See responses to [recommendations n°80, n°145 and n°82].

ICI response:

Many migrant women remain in abusive relationships for fear of losing their right to reside in Ireland and with that, possibly, access to their legally resident and/or Irish citizen children despite 'Domestic Violence Immigration Arrangements' for migrants suffering domestic violence having been introduced in November 2011. Furthermore, due to the 'habitual residence condition' many women who have escaped a violent relationship find

themselves unable to access social support services and women's refuges as, without an independent permit having been granted to them, they do not fulfill the necessary requirements under Section 246 of the Social Welfare Consolidation Act 2005.

IHRC response:

The State has not ratified the Council of Europe Convention on Preventing and Combating violence against Women and Domestic Violence and in this context has not provided adequate resources for domestic violence services.

NASC response:

Some improvement in commitment to review of existing domestic violence legislation and parliamentary review of legislation.

ICCL response:

[See response to recommendation n°80]

Recommendation n°82: *Continue efforts with the aim of establishing protection campaigns and programmes for women against domestic violence* (Recommended by Argentina)

IRI: *partially implemented*

State of Ireland response:

Ongoing.

See response to recommendation [n°80].

Since its establishment, Cosc has invested significant funds to support groups at local, regional and national level to raise awareness of domestic violence and of services available for victims.

Ireland has a National Strategy on Domestic Sexual and Gender-based Violence and our legislation on domestic violence has been strengthened in a number of areas in recent years, including the addition of provisions to protect those with children in common who are not cohabiting as well as all cohabiting couples regardless of gender.

The Programme for Government also includes a specific commitment to reviewing domestic violence legislation. As well as the review of the domestic violence legislation being undertaken by the Law Reform Commission, a Parliamentary Committee is currently compiling a report on measures that might be put in place to reduce domestic and sexual violence. The Minister for Justice and Equality expects to examine a

package of workable and effective proposals for the reform of the domestic violence legislation as soon as possible following receipt of these reports.

Strategies for improved domestic and sexual violence data collection, collation and presentation are at an advanced stage of development. In September 2013, the Department of Justice and Equality published the Criminal Justice (Forensic Evidence and DNA Database System) Bill 2013, the key innovation of which is the establishment of a DNA database to assist the Gardaí in tackling crime. This will be of particular benefit in the investigation of cases of rape and sexual assault.

IHRC response:

The State has not ratified the Council of Europe Convention on Preventing and Combating violence against Women and Domestic Violence and in this context has not provided adequate resources for domestic violence services.

NASC response:

Some improvement in commitment to review of existing domestic violence legislation and parliamentary review of legislation.

ICCL response:

[See response to recommendation n°80]

Recommendation n°84: *Fully implement the relevant laws, policies and programmes aimed at combating domestic violence in the country* (Recommended by Malaysia)

IRI: *fully implemented*

State of Ireland response:

Ongoing.

See responses to recommendations [n°80] and [n°82]

IHRC response:

The State has not ratified the Council of Europe Convention on Preventing and Combating violence against Women and Domestic Violence and in this context has not provided adequate resources for domestic violence services.

NASC response:

Some improvement in commitment to review of existing domestic violence legislation and parliamentary review of legislation.

ICCL response:

[See response to recommendation n°80]

Recommendation n°85: *Pass legislation to combat trafficking in human beings in the form of sham marriages* (Recommended by Latvia)

IRI: *not implemented*

State of Ireland response:

The Department of Social Protection is developing proposals for legislation which will make sham marriages more difficult to broker in Ireland. It is hoped that legislation to amend the Civil Registration Act 2004 will be introduced early in 2014.

In addition, the Department of Justice and Equality is currently re-examining the provisions in the Immigration Residence and Protection Bill 2010 and drafting amendments to deal with immigration related marriages of convenience and sham marriages. A similar approach is being taken in respect of the Free Movement Regulations that transposed the relevant EU Directive into Irish law.

The issue of sham marriages is a complex one and there is no single, legislative or operational approach that will permanently eliminate the problem. The relevant authorities deploy a range of operational measures and cooperate closely in tackling this problem, in particular with a view to protecting the interests of vulnerable persons and combating abuse of the immigration system.

IHRC response:

- The State has not taken steps to promote the participation of vulnerable and disadvantaged groups in the workforce, such as migrant workers, including by reforming the work permit system to incorporate freedom to change employers and providing temporary work permits to asylum seekers.
- The State has not introduced stand-alone legislation, to combat Human Trafficking, that defines forced or compulsory labour and servitude as a criminal offence in its own right, and in addition confers a specific mandate on the National Employment Rights Agency to include the detection and prosecution of such offences within their inspection and regulatory powers.
- To combat Trafficking, victims of forced or compulsory labour and servitude should have the opportunity to seek redress through civil law, whatever their legal status in the State, and be provided with appropriate protection by the State.

NASC response:

Amendment bill introduced

ICCL response:

It has been reported that draft legislation has been prepared by the Department of Social and Family Affairs which would afford a right to civil registrars to investigate a suspected marriage of convenience. This legislation has yet to be published [For more information, see [here](#)].

Recommendation n°89: *Ensure the national availability and accessibility to contraceptive services and methods, including through the dissemination of information and education to boys, girls and adolescents, taking into account prevention of discrimination based on geographic status, disability or migrant status* (Recommended by Mexico)

IRI: *fully implemented*

State of Ireland response:

Contraceptive services and methods are available nationally, mainly through primary healthcare providers. The HSE Crisis Pregnancy Programme is a national programme tasked with developing and implementing a national strategy to address the issue of crisis pregnancy in Ireland. This task includes improving knowledge and awareness of sexual health and relationships through the delivery of targeted communications campaigns, customised information and educational programmes and other initiatives across a range of settings. The Programme runs and funds a range of sexual health information and education campaigns targeted to groups identified by research as having particular sexual health information needs, such as children and adolescents, 18-24 year olds, women aged 35-55 and parents, as well as early school leavers, young people who have experienced first sex before 17 years, and other minority groups.

Recommendation n°90: *Further measures to eliminate the underrepresentation of women in decision-making roles, particularly in the political arena and as members of corporate boards* (Recommended by Ghana)

IRI: *fully implemented*

State of Ireland response:

Ongoing.

An all-Party conference aimed at raising awareness on women and politics was hosted by the Minister of State in charge of Equality, Ms Kathleen Lynch T.D. on 30 January 2012. The event attracted over 300 participants and brought about a greater awareness of the issue and the challenges for political parties and the public. The Conference heard from the political and administrative leaders of all the main political Parties, including the



Taoiseach (Prime Minister) and Tánaiste (Deputy Prime Minister) and representatives of the opposition. It also heard the experiences of a number of serving politicians and words of experience and guidance from a number of international experts.

Part 6 of the Electoral (Amendment) (Political Funding ) Act 2012 requires political parties in receipt of State funding to include a quota of 30 per cent of women candidates at the next general election, rising to 40 per cent at the following general election. Failure on the part of a political party to comply with this provision will lead to a cut in State funding to the party.

As already mentioned in [N°15] above, a working group chaired by Minister of State Kathleen Lynch T.D. in the context of the National Women's Strategy has been specifically addressing the advancement of women in leadership roles, including in politics, management, on Boards, in the diplomatic and judicial systems. Its report along with recommendations for action will be presented to Government shortly.

A wide ranging positive action programme will start later this year on “women and leadership” which is being supported over a two year period by the European Social Fund PROGRESS initiative.

The reiteration in the Programme for Government 2011 – 2016 is that all State boards have at least 40 per cent of each gender. This was backed up further in April 2011 when Government decided that future vacancies on State boards should be advertised on the website of the relevant Government Department. Departments are also required to report annually on the steps that they and their agencies are taking to achieve the 40% target which currently stands at around 34%.

#### IHRC response:

- Article 41.2 of the Irish Constitution continues to perpetuate stereotypical attitudes towards the role of women in Irish society and is a matter of priority and a specified timeframe for its replacement or amendment needs to be put in place.
- The State still needs to expand the definition of equality in Irish law. In particular, Article 40.1 of the Constitution should be amended to guarantee equality to all and to proscribe discrimination (direct or indirect) in any area of law and practice on non-exhaustive grounds.

#### ICCL response:

The elections of 23 May, 2014, were the first to take place since the government passed legislation for gender quotas at General Election time.

While quotas did not apply, the elections did act as a strong indicator as to each party's approach to gender quotas, and the degree of importance that they have given to the need for more women in politics in Ireland. The percentage of women has risen marginally from 17% - 20% in local authorities while the percentage of women in the Dail increased to 16% with the election of 2 women in 2 by elections held. In addition for the first time in history the percentage of Irish women MEPs now exceed that of men at 52% [For more information, see [here](#)]. The political system remains largely closed to women in particular women from disadvantaged or minority backgrounds who face additional barriers above men from these socio-economic or cultural backgrounds. Ireland has never had a Traveller (female or male) TD and our only Muslim TD was a man elected in 1992. The Irish parliament (Oireachtas) is still dominated by male-centred practices which manifest themselves in the parliamentary culture, for example it is characterised by long hours, lack of cross-party solidarity mechanisms for women and no possibility to use video-conferencing services for either Committee or constituency work to facilitate work-life balance (See Calling Time: from old boys club to modern workforce: building a woman friendly Oireachtas, NWCI (2013, pending publication). Poor numbers of women in leadership positions exist across the echelons of Irish society. The three most senior legal offices in the country are now occupied by women (Attorney General Máire Whelan SC; Chief Justice Susan Denham and Claire Loftus, Director of Public Prosecutions), yet men still hold the overwhelming majority of judicial positions (occupying two-thirds of Supreme and High Court positions) [For more information, see [here](#)]. In boardrooms Ireland also has a poor record. Our top 20 publicly listed companies (Plcs) have only 9% female members ([EU Commission Database on Women in Decision-Making](#)). State boards, despite a 40% target set in 1996, have only 35% women members (Women and Men in Ireland 2011, Central Statistics Office, p35. (2012)). Women tend to be over-represented on Boards relating to family affairs while men tend to be over-represented on Boards relating to finance and economics, such as the National Asset Management Agency [NAMA] and the National Pension Reserve Fund. Increased representation for women and men in Boardrooms can have a positive impact on wider society through improved decision-making. The government has taken a number of positive steps to address some of these problems. A [candidate quota law](#) mandating political parties to include a minimum of 30% women at the next general election (rising to 40%) is in now place (Electoral (Amendment) (Political Funding) Act 2012).

**Recommendation n°107: Consider alternative (legislative) measures that will enhance the position of children in the short term (i.e. extending the**

*remit of the Ombudsman to children in prisons and asylum-seeking children) (Recommended by Netherlands)*

*IRI: fully implemented*

State of Ireland response:

Ongoing.

The Ombudsman for Children had been precluded from considering complaints by or on behalf of children detained in a prison by virtue of section 11(1)(e)(iii) of the Ombudsman for Children Act, 2002 .

The Minister for Children and Youth Affairs, having consulted with the Minister for Justice and Equality in this regard, made an Order under section 11(2) of the 2002 Act by Statutory Instrument No. 210 of 2012, with effect from 1st July 2012, which removed this exclusion.

In October 2012, following the enactment of the Ombudsman (Amendment) Act 2012 the remit of both the Ombudsman and the Ombudsman for Children was significantly expanded and the bodies to come within the remit of each Ombudsman and the process for any future changes to their respective remits were aligned.

CRA response:

Ongoing. There have been a range of measures taken to enhance the position of children in Ireland and it is expected that further legislation will be progressed to give effect to the Constitutional Amendment on Children should it be cleared for implementation following the current court challenge. Examples of legislation includes: measures have been put in place to remove under 18 year old males (the issue affected males only) from adult detention facilities at St. Patrick's Institution. In October 2013, construction began on a new National Children Detention Facility for under 18 year old boys and girls. In May 2012, all 16 year olds males were transferred to the children detention facilities in Oberstown. Since December 2013, all 17 year olds serving custodial sentences, previously being held at St. Patrick's Institution, have been transferred to Wheatfield prison with the exception of a small number of those on remand. The Children's Rights Alliance believes that the transfer to another adult prison must be a temporary and short-term measure – adult prisons are not suitable accommodation for the detention of young people. Appropriate temporary measures for 17 year old males on remand must be put in place to allow them to be removed from St. Patrick's Institution during this transitional phase. - The long-awaited Revised Heads of the Immigration Residence and Protection Bill were due to be published in 2013 but these have not been finalised. Preparations for this piece of legislation were first carried out as far back as 2001. This legislation is expected to address

issues facing asylum seeking and separated children. - The remit of the office of the Ombudsman for Children has been extended to include children in prisons as of 1 July 2012 as well as all public bodies under the aegis of the regular Ombudsman. However, children seeking asylum remain excluded from her remit. - With regard to child protection, the Criminal Justice Withholding of Information Act 2012 and the National Vetting Bureau Act 2012 have both come into force. The Children First Bill 2014 was published, it seeks to place aspects of our national child protection reporting guidelines on a statutory footing. The Children and Family Relationships Bill 2014 was also published. It is a milestone piece of legislation for children in non-traditional family types and will revolutionise their legal relationships with those who care for them. The Children's Rights Alliance continues to work on these and other areas of legislation affecting children in Ireland.

NASC response:

No action on this.

IRC response:

The Ombudsman for Children Act 2002 S.11 states that the Ombudsman for Children shall not investigate any action taken by or on behalf of a public body, school or voluntary hospital— (e) if the action is one—( i) taken in the administration of the law relating to asylum, immigration, naturalisation or citizenship

However, the Ombudsman for Children views issues not related to actual asylum or immigration decisions as within their remit. This includes Direct Provision, as it is an administrative system, not one based in law. However, the Department of Justice does not share this view. At present, the Ombudsman for Children will investigate any and all complaints, but they recognise that if a resolution was not reached with the Reception and Integration Agency, that it is likely to end up in the courts. They have had 15 complaints relating to DP (to date). The Ombudsman for Children is concerned, that unlike other public bodies, persons in receipt of services under aegis of the Department of Justice are not told they have the right to make a complaint to the Ombudsman for Children.

The Health Information and Quality Authority, the independent organisation with legal power to inspect residential services etc provided by the Child and Family Agency (formerly the Health Service Executive, can inspect residential care facilities for separated children. They cannot inspect Direct Provision. Aged-out and age-disputed separated children/young people often live in Direct Provision.

In February 2011 Statutory Instrument No. 52 of 2011 Refugee Act 1996 (Asylum Procedures) Regulations 2011 (which transposed Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status) was passed in to law. The SI included provision on unaccompanied minors, but specifically relating to the Refugee Applications Commissioner's duty to consider the best interest of the child plus additional interview safeguards.

ICCL response:

This has not been progressed.

Recommendation n°110: *Develop and adopt a gender parity law* (Recommended by *France*)

IRI: *partially implemented*

State of Ireland response:

Please see response to recommendation [n°90] above, which outlines recent changes in electoral law.

IHRC response:

- Article 41.2 of the Irish Constitution continues to perpetuate stereotypical attitudes towards the role of women in Irish society and is a matter of priority and a specified timeframe for its replacement or amendment needs to be put in place.
- The State still needs to expand the definition of equality in Irish law. In particular, Article 40.1 of the Constitution should be amended to guarantee equality to all and to proscribe discrimination (direct or indirect) in any area of law and practice on non-exhaustive grounds.

ICCL response:

This has not been progressed - see information above on gender issues.

Recommendation n°119: *Ensure the full implementation and undertake an independent assessment of the National Women's Strategy* (Recommended by *Austria*)

IRI: *partially implemented*

State of Ireland response:

A report on the progress of implementation of the National Women's Strategy 2007 – 2016 is prepared annually by the Department of Justice and Equality and submitted to Government. A mid-term review of the Strategy has also been completed and will be submitted to Government shortly. The review was referred for consideration and input to a monitoring committee, which includes members of civil society.

ICCL response:

This is currently under review by the Department of Justice and Equality (i.e. not an independent review).

Recommendation n°132: *Enhance its efforts at the local level to better carry out the campaign against domestic violence* (Recommended by Switzerland)

IRI: *fully implemented*

State of Ireland response:

Please see responses to recommendations [n°80] and [n°82].

IHRC response:

The State has not ratified the Council of Europe Convention on Preventing and Combating violence against Women and Domestic Violence and in this context has not provided adequate resources for domestic violence services

ICCL response:

[See response to recommendation n°80]

Recommendation n°134: *Strengthen its policies and laws against domestic violence and prepare adequate statistics, including sex, age and family relationship of victims and perpetrators* (Recommended by Pakistan)

IRI: *partially implemented*

State of Ireland response:

Please see responses to recommendations [n°80] and [n°82].

IHRC response:

- The State has not ratified the Council of Europe Convention on Preventing and Combating violence against Women and Domestic Violence and in this context has not provided adequate resources for domestic violence services

NASC response:

Some improvement in commitment to review of existing domestic violence legislation and parliamentary review of legislation.

ICCL response:

[See response to recommendation n°80]



Recommendation n°136: *Institute a comprehensive statutory inquiry and compensation scheme in order to guarantee accountability and assist the (women and children) victims (of violence)* (Recommended by Thailand)

IRI: *partially implemented*

State of Ireland response:

As indicated in Ireland's National Report and Addendum to the Report of the Working Group, the Government apologised to those who had been victims of childhood abuse while in institutional care. A Commission to Inquire into Child Abuse was established to hear the accounts of those involved and to investigate the abuse of children in institutions. The Commission published its final report in 2009.

The Residential Institutions Redress Board was established in 2002 to make financial awards to assist in the recovery of those involved. By end-October 2013, the Board had made 14,934 awards with an overall average award value of €62,584. €918 million has been paid in respect of such awards. The Board has some 700 applications to finalise.

The Residential Institutions Statutory Fund to support the needs of survivors of residential institutional abuse was established by the Government in March 2013. The Fund will utilise contributions of up to €110million pledged by religious congregations and will target support at survivor needs across a range of services, including mental health services, health and personal social services, housing services and education services. It is expected that the Fund will begin inviting applications in early 2014.

Counselling services are also available through the National Counselling Service and a family tracing service is available to former residents wishing to trace family members with whom they have lost contact.

IHRC response:

- The State has not ratified the Council of Europe Convention on Preventing and Combating violence against Women and Domestic Violence and in this context has not provided adequate resources for domestic violence services.

CRA response:

Not yet done. The Government introduced details of a scheme of redress for victims of the Magdalene laundries at the end of 2013 but concerns remain as to the detail of the scheme such as women being offered compensation for stays in the laundries which were shorter than their actual time and that women are being asked to sign waivers of their legal rights in

advance of government offers of information on pension, healthcare etc. For more information see [\[here\]](#). Following a ruling from the European Court of Human Rights on the [Louise O'Keeffe case](#), the State Claims Agency is reviewing its day-school abuse cases in order to determine those that fall within the parameters of the case, however concerns have been expressed as to the delays involved in addressing the claims.

Justice for Magdalenes (JFM) response:

Regarding Ireland's Magdalene Laundries abuse: partially implemented.

(a) Comprehensive statutory inquiry

There has been no comprehensive statutory inquiry into the abuse of girls and women in Ireland's Magdalene Laundries. In July 2011, the Irish government established an Inter-departmental committee "to establish the facts of state involvement" with the Magdalene Laundries. Following the publication of the Inter-departmental Committee's report in February 2013, the government issued a State apology to survivors of the Magdalene Laundries and tasked the President of the Irish Law Reform Commission, Mr Justice John Quirke, with devising proposals for payments and other supports. As noted by the Committee against Torture in May 2013, however, the Inter-departmental Committee "lacked many elements of a prompt, independent and thorough investigation as recommended by the Committee in its Concluding Observations" [in 2011]. For example, the Inter-departmental Committee was provided with no statutory powers, such as the power to compel evidence from the religious orders who operated the Laundries. As accepted by the government in correspondence to the Committee against Torture, the Inter-departmental Committee "had no remit to investigate or make determinations about allegations of torture or any other criminal offense".

(b) Compensation scheme

In June 2013, the government accepted all recommendations of Mr Justice John Quirke and committed to implementing a Restorative Justice Scheme including: lump sum compensation; maximum contributory State pension payments; a dedicated governmental unit; and a comprehensive suite of healthcare services, including several private healthcare services. At the time of writing (May 2014), a proportion of applicants to the Restorative Justice Scheme have received lump sum payments. However, pension payments have not yet begun and the government has not yet published the legislation necessary to provide for healthcare under the scheme or the appointment of personal representatives in appropriate cases. The government has not stated whether it intends to provide healthcare entitlements to applicants who reside outside Ireland. Furthermore, many

women are experiencing difficulties obtaining compensation which accurately reflects their length of stay due to inadequate or missing records.

ICCL response:

Although a number of redress schemes have been established for women and children, effective, comprehensive and independent mechanisms for truth finding and redress for the victims of State and institutional (incl. religious) mistreatment and abuse have not been forthcoming for example in relation to:

- victims of the Magdalene Laundries (see [Irish Human Rights Commission Follow-Up Report on State Involvement with Magdalene Laundries](#), June 2013);
- survivors of involuntary and unnecessary surgical procedures (symphysiotomy and pubiotomy) during childbirth conducted mainly in private hospitals (see [Civil Society Report to the Fourth Periodic Examination of Ireland under ICCPR](#), pages 22 to 25);
- victims of mistreatment and neglect in so-called 'mother and baby' residential care and adoption facilities (see [submission](#) of the Irish Human Rights and Equality Commission (designate) on the Proposed Commission of Investigation to Inquire Into Mother and Baby Homes, July 2014).

Recommendation n°137: *Explicitly prohibit any form of corporal punishment in the family and continue developing awareness-raising campaigns and education for parents and for the public in general* (Recommended by Uruguay)

**IRI: not implemented**

State of Ireland response:

Ongoing.

This area is under continuous review, as stated in Addendum to the Report of the Working Group.

Global Initiative to End Corporal Punishment Against Children (GIEACPC) response:

In Ireland, the "right" to use "reasonable and moderate chastisement" in disciplining children was repealed from the Children Act 2001 but it remains in force under common law. The Government "partially accepted" recommendations to prohibit corporal punishment, stating that the matter is "under continuous review" and that "a proposal to either prohibit the defence of reasonable chastisement or to further circumscribe the definitions of what constitutes reasonable chastisement would require careful consideration". But the Committee on the Rights of the Child is clear

that all corporal punishment should be prohibited: the "reasonable chastisement" defence should be entirely repealed not simply limited - no level of violent punishment of children can be considered "reasonable". Ireland has prohibited corporal punishment in the penal system, in schools, in some forms of day care and in some alternative care settings. It is necessary now to complete the process of law reform by explicitly repealing the "reasonable chastisement" defence, thereby protecting children from assault even when inflicted in the guise of "discipline".

CRA response:

Not yet done. Corporal punishment by parents or other family members is not prohibited by law in Ireland with the common law defence of 'reasonable chastisement' being available in family and care settings. This is in spite of calls from the UN Committee on the Rights of the Child, the European High Commissioner for Human Rights and the national Special Rapporteur on Child Protection.

ISPCC response:

The ISPCC continues to be concerned that the corporal punishment of children in all settings has not been banned in Ireland and have been urging the Government to remove the common law defence of 'reasonable chastisement', and legislate for an outright ban on violence against children in all settings. This is not only a child protection concern but a key human rights issue. The European Committee of Social Rights (ECSR) has confirmed that Ireland is in breach of their human rights obligations under the European Social Charter because they have not prohibited all corporal punishment. In early 2014 the ISPCC published the findings of a survey which found the almost three quarters of adults questions do not believe that slapping is an effective parenting tool. In addition almost 3 in 5 adults would support a complete ban with just over 3 in 5 believing it to already be illegal. Furthermore there is overwhelming evidence that slapping is ineffective in changing a child's behaviour and in fact has negative effects on children, adults, and society in general. Now is the time for the Government to step up and implement a ban on slapping in all settings without delay. As well as a legal ban on slapping, support and education is needed for parents - a large scale national positive parenting programme should be available to help parents find alternative discipline methods.

ICCL response:

See Replies to the List of Issues regarding Ireland's Fourth Periodic Report to the Human Rights Committee, CCPR/C/IRL/Q/4/Add.1) at paras 94 - 98.

Recommendation n°138: *Promote forms of discrimination and non-violent discipline as an alternative to corporal punishment, taking into consideration general comment No. 8 (2006) of the Committee on the Rights of the Child on the protection of children from corporal punishment and other cruel or degrading forms of punishment (Recommended by Uruguay)*

IRI: *partially implemented*

State of Ireland response:

Ongoing.

This area is under continuous review, as stated in Addendum to the Report of the Working Group.

GIEACPC response:

[See response to recommendation n°137]

CRA response:

The new Child and Family Agency was established on 1 January 2014 as part of reform of child and family services and transfers responsibility for these services from the Health Service Executive (HSE) to the Department of Children and Youth Affairs. It intends to bring a dedicated focus to child protection, family support and other key children's services and will provide supports to parents under its Parenting Support Strategy.

ISPCC response:

The ISPCC believes that the comprehensive, quality support and education of parents is essential in actively discouraging slapping and promoting positive, non-violent forms of discipline. A legal ban would serve the purpose of removing slapping as an option for parents and would steer and support parents to find alternative disciplinary methods. A recent ISPCC survey found that two thirds of adults believe that there is not enough information available to parents relating to alternative methods of discipline. What is required along with a legal ban is a large scale national positive parenting programme.

ICCL response:

See Replies to the List of Issues regarding Ireland's Fourth Periodic Report to the Human Rights Committee, CCPR/C/IRL/Q/4/Add.1) at paras 94 - 98.

Recommendation n°158: *Introduce legislation to implement the European Court of Human Rights judgement in the A, B and C versus Ireland case (Recommended by United Kingdom)*

IRI: *fully implemented*

IFPA response:

While a new piece of legislation has been introduced (the Protection of Life During Pregnancy Act 2013), the IFPA is of the view that the legislation does not satisfy the requirements of the ECtHR in the A, B and C v Ireland case. It does not satisfy the requirements of existing case law, such as decision in the ECtHR case of Tysiac v Poland (the Court stated that (1) where abortion is lawful, the State must not structure its legal framework in a way that would limit real possibilities to obtain it; (2) in order to fulfil its obligations under the Convention, the State must ensure that the law is formulated to alleviate the chilling effect). The IFPA is of the view that the retention of severe criminal penalties—a maximum penalty of fourteen years applies and could apply to pregnant women and to doctors—is ineffective, disproportionate and inconsistent with the State's obligations under the European Convention on Human Rights and international human rights law generally. In the opinion of the IFPA, the inclusion of the new criminal offences will not only maintain, but substantially reinforce, the chilling effect that was recognised by the Court. The IFPA is also of the view that the Act imposes unnecessary burdens on women and in this way insufficiently vindicates the right to life of pregnant women whose lives are at risk. The IFPA is of the opinion, moreover, that the Act imposes unreasonable bureaucratic obstacles on doctors, and in doing so, unacceptably interferes with the therapeutic relationship between a woman and her doctors and infringes upon the principles of dignity and personal autonomy that are at the heart of the right guaranteed under Article 8 of the Convention. Furthermore, as a provider of medical services, the IFPA is of the view that the legislation does not place sufficient emphasis on the duty of care of health service providers to ensure that women can exercise their constitutional right. The 2013 Act is now the primary source of information for medical practitioners and health service institutions in relation to the law on abortion in Ireland. While the Act governs the provision of abortion services by hospitals where a woman's life is at risk, it is silent on the responsibilities of a primary care provider to whom a woman presents in the early stages of pregnancy and expresses concern that her pregnancy will pose a risk to her life if it continues.

The Act does not contain provisions, nor has the Department of Health produced guidelines or protocols on best practice on the part of the treating doctor in such a case. There is therefore no clear referral pathway such that a woman is assured of access to medical professionals who are empowered under the Act to certify that a risk to life exists. Nor is there clarity in relation to the responsibility of the healthcare system to a woman who is refused certification on the basis that her physical or mental health condition does not amount to a risk to life.



In the opinion of the IFPA, the absence of a policy outlining health professionals' duty of care to women will have significant impacts on the care of women who are concerned that a pregnancy involves risk to life. There is no indication in the government's action report of August 2013 that plans are in place for the development of guidelines, protocols and processes of accountability that would lift the understanding of abortion to save a woman's life out of the context of criminal law and situate it within the context of best medical practice in reproductive healthcare. The Act further omits any provisions that would ensure access to treatment under the Act by women and girls from social groups that tend to encounter difficulties in accessing medical practitioners, or for whom making an application for a review of a decision in writing is likely to pose difficulties: e.g. women or girls from lower socio-economic backgrounds or geographic areas with limited access to or lack of choice regarding healthcare, women or girls of ethnic minority backgrounds, including asylum seekers and refugees, or undocumented migrants; women or girls who are functionally illiterate or have intellectual disabilities. (The Irish Human Rights Commission (IHRC) has expressed similar concerns.) Women and girls in these circumstances are also likely to encounter barriers to and delays in the exercise of their right to travel if they are either unable to access the services covered by the Act or if it is decided that it is their health rather than their life that is at risk, and are therefore refused treatment under the Act. It is the IFPA's view that the draft regulations are framed in excessively restrictive terms and place disproportionate emphasis on the requirement to "preserve unborn human life" and may thereby act as a deterrent or give insufficient clarity to medical practitioners, particularly if no guidelines are published that clearly place the Act and the regulations in the context of best medical practice to vindicate the right to life of a pregnant woman.

#### IHRC response:

The Oireachtas (Parliament) passed the Protection of Life During Pregnancy Act, in July 2013, and the Act was commenced in January 2014. This legislation was in response to the judgment of the European Court of Human Rights in A, B, and C v Ireland. The matter of execution of this judgment is still under consideration by the Committee of Ministers of the Council of Europe.

#### ICCL response:

Protection of Life During Pregnancy Act 2013 enacted July 2013. However see [ICCL submission](#) to the Committee of Ministers of the Council of Europe regarding the execution of the A, B and C judgment (which the 2013 Act purports to enact).

Recommendation n°159: *Take measures to revise the law on abortion with a view to permitting termination of pregnancy in cases where pregnancy is a result of rape or incest, or in situations where the pregnancy puts the physical or mental health or well-being of the pregnant woman or the pregnant girl in danger* (Recommended by Denmark)

IRI: *not implemented*

IFPA response:

No measures have been taken: the position in law is that abortion is available only to save the life (as distinct from the health) of a pregnant woman. Women in all other circumstances must exercise the right to travel and avail of services as private patients, entirely at their own expense, in another state. Many women experience significant delays in raising funds and organising to make this trip and the delay can increase the stress, distress and cost of the journey. Women who cannot exercise the right to travel have no option but to parent; although some women import abortion pills using online services, which may or may not provide genuine products, and self-administer these pills with no medical support or supervision. Women in these circumstances may delay seeking medical care if complications should arise, thereby endangering their health. The government has no plans to introduce a constitutional amendment to permit the introduction of a less restrictive abortion regime.

IHRC response:

The Oireachtas (Parliament) passed the Protection of Life During Pregnancy Act, in July 2013, and the Act was commenced in January 2014. This legislation was in response to the judgment of the European Court of Human Rights in A, B, and C v Ireland. The matter of execution of this judgment is still under consideration by the Committee of Ministers of the Council of Europe.

ICCL response:

Protection of Life During Pregnancy Act 2013 enacted July 2013. However see [ICCL submission](#) to the Committee of Ministers of the Council of Europe regarding the execution of the A, B and C judgment (which the 2013 Act purports to enact).

Recommendation n°160: *Allow abortion at least when pregnancy poses a risk to the health of the pregnant woman* (Recommended by Slovenia)

IRI: *not implemented*

IFPA response:

No progress has been made in this regard. The law has not changed and abortion is still lawful only to save a woman's life as distinct from her health.

Statements by the government indicate that there are no plans for any change in the law, in spite of considerable support for, for example, the legalisation of abortion in cases of severe foetal anomaly where the foetus cannot survive outside the womb. Women in these circumstances are generally being treated within the health service in Ireland when a diagnosis is made and experience an abrupt cessation of care if they decide to end the pregnancy. This experience of expulsion from the health service together with the cost and complexity of treatment in another country significantly adds to the burdens on these women of giving effect to a reproductive choice. Although the Minister for Justice has described this situation as cruel, the government has no plans to change the law to allow abortion in these cases or in cases where the woman's own physical health is at risk. The serious risk posed to pregnant women's health—for example by heart and vascular diseases, pulmonary diseases, kidney diseases, oncological, neurological, gynaecological, obstetric and genetic conditions—may become a risk to life in particular circumstances. Pregnancy may exacerbate the risk to women of pre-existing conditions—for example, epilepsy, diabetes, cardiac disease, auto-immune conditions and severe mental illness. The case may be that the risk is to a woman's health, rather than to her life. From the perspective of a medical services provider, there is no bright line between life and health. No other country in Europe forces doctors to make the distinction that is made in Irish law, permitting abortion to save a woman's life, but not to preserve her health. Most countries offer abortion on the basis of the adverse consequences to women's health as the only way to ensure that a full range of health sexual and reproductive health services are available and accessible to women. For women in these circumstances the burden of accessing abortion services is placed on the woman rather than the health care system. Women who make this journey for medical reasons do so in the context of the legal uncertainty and the chilling effect of the current law and standard medical referral protocols may not be applied. Women in this context must leave the mainstream health care service. They must make their own way to a private medical facility in another country without the protection of the protocols that apply in other situations where people travel for health care. While some doctors make ad hoc arrangements, we know of women who have travelled without medical files detailing their medical history or proper referral by their doctor. These women travel outside the State to avail of services that are criminalised in Ireland—a journey that, in many cases, involves significant psychological, physical and financial burdens. These burdens fall most heavily on those who are already disadvantaged or vulnerable: those with little or no income, women with care responsibilities, women with disabilities, women with mental illness, women experience violence, young women and women requiring travel visas.

IHRC response:

The Oireachtas (Parliament) passed the Protection of Life During Pregnancy Act, in July 2013, and the Act was commenced in January 2014. This legislation was in response to the judgment of the European Court of Human Rights in *A, B, and C v Ireland*. The matter of execution of this judgment is still under consideration by the Committee of Ministers of the Council of Europe.

ICCL response:

Protection of Life During Pregnancy Act 2013 enacted July 2013. However see [ICCL submission](#) to the Committee of Ministers of the Council of Europe regarding the execution of the *A, B and C* judgment (which the 2013 Act purports to enact).

*Recommendation n°161: Adopt legislative measures that guarantee greater integration of women as well as safeguards for their personal rights and reproductive health care and reform the Offences against the Person Act of 1861 to decriminalize abortion under certain circumstances (Recommended by Spain)*

IRI: *partially implemented*

IFPA response:

The Act criminalises any person who intentionally destroys unborn human life, except in the narrow circumstances covered by the Act. The maximum penalty for this offence (“destruction of unborn human life”) is fourteen years imprisonment. This penalty applies equally to pregnant women and abortion providers. The consent of the Director of Public Prosecutions is required for a prosecution to be brought. The Court considered that the existence of criminal penalties for having or assisting in an unlawful abortion constitutes a significant “chilling factor” for both women and their doctors. The 2013 Act maintains the legal position whereby abortion is lawful only to save a pregnant woman’s life, and is criminalised in all other circumstances, including where there is a risk to a woman’s health and well-being. The IFPA is concerned that the 2013 Act does not adequately address the chilling effect highlighted by the European Court of Human Rights, and may, in fact, substantially reinforce it. The new offence of intentional destruction of unborn life carries a maximum penalty of 14 years imprisonment, which is applicable to a pregnant woman or another person who carries out an abortion in any circumstances except where a woman’s life is at risk. The IHRC has questioned the proportionality of this provision, especially in regard to vulnerable women. The scope of the offence of intentional destruction of unborn life is also of concern: it appears to be sufficiently widely drafted to criminalise women and girls who obtain

medication from an online or other provider and self-induce abortion. The IFPA knows from our services that women and girls who self-induce abortion may be deterred from or delayed in accessing post-abortion medical care for fear of prosecution, and may thereby endanger their health. The effect of section 22 is that it remains a crime to provide an abortion in the interests of a woman's health, where the pregnancy is the result of a crime and in cases of fatal foetal abnormality.

#### IHRC response:

The Oireachtas (Parliament) passed the Protection of Life During Pregnancy Act, in July 2013, and the Act was commenced in January 2014. This legislation was in response to the judgment of the European Court of Human Rights in A, B, and C v Ireland. The matter of execution of this judgment is still under consideration by the Committee of Ministers of the Council of Europe.

#### ICCL response:

Protection of Life During Pregnancy Act 2013 enacted July 2013. However see [ICCL submission](#) to the Committee of Ministers of the Council of Europe regarding the execution of the A, B and C judgment (which the 2013 Act purports to enact).

Recommendation n°162: *Ensure that the establishment of an expert group on abortion matters will lead to a coherent legal framework including the provision of adequate services (Recommended by Netherlands)*

**IRI: not implemented**

#### IFPA response:

The expert group reported in November 2012 and made a series of recommendations. The most significant was the recommendation that legislation be introduced to give effect to the Supreme Court ruling in the 1992 X case and the 2010 ruling of the ECtHR in A, B and C v Ireland. Equally was important was the recognition that in order to give effect to the right under the Constitution (to abortion in case of risk to life) adequate services must be made available and accessible. However, the legislation that was introduced in 2013 does not, in the IFPA's view amount to a sufficiently coherent framework to ensure that women's human rights are respected and fulfilled. Indeed the Act introduces some procedural requirements on the one hand and omits to give sufficient clarity on the other that it is likely that women from certain social groups will not have access to lawful services even if they fall within the narrow grounds of the Act and that the women who seek abortion on grounds of risk to life from suicide will be subjected to will violate their rights under the ICCPR and the CAT. Given the arduous procedural requirements and the lack of clinical



guidelines for doctors, it is not at all certain that the Act will ensure adequate services for the extremely limited category of women who are lawfully entitled to such services (i.e. those whose lives are at risk).

IHRC response:

The Oireachtas (Parliament) passed the Protection of Life During Pregnancy Act, in July 2013, and the Act was commenced in January 2014. This legislation was in response to the judgment of the European Court of Human Rights in *A, B, and C v Ireland*. The matter of execution of this judgment is still under consideration by the Committee of Ministers of the Council of Europe.

ICCL response:

Protection of Life During Pregnancy Act 2013 enacted July 2013. However see [ICCL submission](#) to the Committee of Ministers of the Council of Europe regarding the execution of the *A, B and C* judgment (which the 2013 Act purports to enact).

Recommendation n°167: *Ensure the protection of the rights of domestic migrant workers, the majority of whom are women whose rights are not protected under the 2004 Law on parity* (Recommended by Uzbekistan)

IRI: not implemented

ICCL response:

Not progressed

Recommendation n°169: *A Criminal Justice (Withholding Information on Crimes against Children and Vulnerable Adults) Bill and a National Vetting Bureau Bill were presently being prepared and would be presented to Parliament as soon as possible and revised Children First guidelines would be placed on a statutory basis* (Recommended by Ireland)

IRI: fully implemented

CDLP response:

The Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Adults) Bill 2012 passed all stages on 12 July, and was signed by the President on 18 July, 2012. The Act came into effect on the 1 August, 2012. The mandatory reporting of suspected abuse outlined places the obligation on a third party to disclose historical abuse regardless of the persons affected wishes to do so. While the intentions of this Act are commendable, this provision has the unintended effect of ensuring that, for example, researchers interviewing adults with disabilities, will not be able to maintain confidentiality if the person discloses an experience of historical sexual abuse, even if the adult does not wish the crime to be reported. We



suggest that this aspect of the Act be reconsidered by government in order to ensure respect for the autonomy of adults with disabilities.

The National Vetting Bureau (Children and Vulnerable Persons) Bill 2012 passed all stages on 19 December, 2012 and was signed by the President on 26 December, 2012. While this initiative is also welcome, the imposition of garda vetting as a requirement for volunteers working with vulnerable populations may be a barrier in the context of supports provided to persons with disabilities, including the pairing of people with disabilities with non-disabled volunteers to achieve community inclusion, if the vetting requirement significantly delays the facilitation of community based inclusive initiatives.

CRA response:

Partially completed. The Criminal Justice (Withholding Information on Crimes against Children and Vulnerable Adults) Bill and a National Vetting Bureau Bill were both enacted in 2012. The former makes it an offence to fail to notify the Gardaí (police) where a serious criminal offence has been committed against a child or vulnerable adult. The National Vetting Bureau Act places on a statutory footing the use of Garda criminal records in check of those applying to work with children or vulnerable adults. The Children First Bill 2014 has recently been published but has yet to be finalised. It provides a statutory basis for aspects of the Children First Guidance with the aim to ensure an adequate and consistent application of the national guidelines on reporting child abuse.

ISPCC response:

Both the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Adults) Act 2012 and the National Vetting Bureau Act 2012 were greatly welcomed as important steps in the continuing development of the child protection system in Ireland. In more recent months, the Children First Bill 2014 has been published with the purpose of placing elements of the Children First National Guidance on a legislative footing. This long awaited Bill was very welcome and contains many positive elements to enhance the protection of children. The ISPCC is currently engaging in consultation and providing feedback on areas of the Bill which may be strengthened. It is also imperative that sufficient resources be made available to provide support to parents and professionals in the implementation of the law.

ICCL response:

Completed

Recommendation n°178: *Legislation was before Parliament to outlaw the practice of female genital mutilation* (Recommended by Ireland)

IRI: *fully implemented*

CAIRDE response:

The Criminal Justice (Female Genital Mutilation) Act 2012 was signed into law on 2nd April 2012. This legislation outlaws the practice of female genital mutilation in Ireland. The Act makes it a crime to perform FGM in the State or remove a girl from Ireland for the purposes of undergoing FGM. This legislation eliminates the argument of consent, custom or culture as a defence. It protects medical professionals by providing clarity on what constitutes FGM and provides protection for victims during legal proceedings.

CRA response:

Female genital mutilation has been outlawed in Ireland. As well as prohibiting the practice, the Criminal Justice (Female Genital Mutilation) Act 2012 means anyone resident in Ireland who takes a girl abroad to have FGM performed will now be subject to prosecution in Ireland. To view the Act, click [here](#).

NASC response:

Introduced

ICCL response:

Completed

Recommendation n°180: *Ireland was committed to reviewing family law and the law on domestic violence* (Recommended by Ireland)

IRI: *fully implemented*

CRA response:

The Children and Family Relationships Bill 2014 was published. It provides for extensive reform of family law. It is currently being debated within the Houses of Parliament. The scheme of the bill can be viewed [here](#).

NASC response:

Review has begun.

ICCL response:

[See response to recommendation n°80]

## Other

Recommendation n°37: *Reinforce the independence and the capacity of the Irish Human Rights Commission to fulfil its mandate effectively in accordance with the Paris Principles* (Recommended by Moldova)

IRI: fully implemented

+

Recommendation n°38: *Reinforce the independence and the capacity of the Irish Human Rights Commission to fulfil its mandate effectively in accordance with the Paris Principles by endowing it with adequate and sufficient resources* (Recommended by Ghana)

IRI: fully implemented

### State of Ireland response:

Ongoing. The Irish Human Rights and Equality Commission Bill was published in March 2014. 14 members-designate of the new Commission were selected in April 2013 according to a process independent of Government and appointed initially to the Equality Authority and the Human Rights Commission so that the two organisations may begin to operate as a cohesive whole. The Government remains committed to doing everything possible to ensure that the Commission has the resources in place to carry out its mandate fully and in full compliance with the Paris Principles and, notwithstanding the current difficult economic climate, has made provision in 2014 for a 45% increase in State funding for the Commission, to €6.299m.

### IHRC response:

- In May 2012, the State published the General Scheme of the Irish Human Rights and Equality Commission Bill 2012 and the follow-up draft Bill is expected imminently.
- In the interim, both the Equality Authority and Irish Human Rights Commission continue as separate legal entities under the interim auspices of Irish Human Rights and Equality Commission (IHREC) designate.
- In December 2013, the IHREC designate was provided with an enhanced cumulative budget and permission to recruit additional staff.
- The State needs to ensure that in the context of the merger of the Labour Court, Labour Relations Commission, Employment Appeals Tribunal, National Employment Rights Authority and Equality Tribunal that the protection and complaints resolution process, under the Equal Status Acts 2000-2011, is not weakened or made any less accessible.

NASC response:

Bill has finally been published (March 2014) but concerns remain whether it will operate in accordance with Paris Principles based on its close financial and reporting relationship with Department of Justice.

Table Observers (TO) response:

The Paris Principles call for adequate funding for the national human rights institution. Funding for the IHRC and the Equality Authority has fallen every year since the State's UPR session, and had indeed fallen steadily from 2008.

ICCL response:

The [Irish Human Rights and Equality Commission Bill](#) was published on 19 March 2014. The legislation has completed its Parliamentary passage in the lower House of Parliament and will pass to the Upper House of Parliament. For analysis of the Bill, including in relation to the powers, functions and budget of the proposed body see the [submission](#) of the Irish Council for Civil Liberties (ICCL).

Recommendation n°39: *Ensure and strengthen the independence of its national human rights infrastructure* (Recommended by Egypt)

IRI: *fully implemented*

State of Ireland response:

Ongoing.

Please see response to recommendation [37, 38].

Action From Ireland (AFRI) response:

Afri made a submission to the UPR in 2011 in relation to the fact that the Garda Ombudsman Office, “GSOC” (the body for overseeing the actions of the police force) is not independent from the Gardaí themselves – this submission arose from our work with the local community involved in the Corrib Gas project in County Mayo. We made 2 recommendations in relation to this, and here is an extract from our submission: “Afri recommends that measures are enacted to ensure that the GSOC's office is independent from the Garda Síochána so that it functions properly and effectively as an oversight mechanism.

The Front Line report (2010) also pointed out that in 2007 the GSOC requested the consent of the then Minister for Justice (Brian Lenihan TD) to carry out a “policies and practices” investigation into the public order aspects of the Corrib Gas Dispute. However, consent was refused without any reasons being given for such refusal. This has given the impression that the government is unwilling to reflect on the quality of the policing, even

though the Corrib Gas Dispute has been the greatest single cause of complaints to the GSOC. Afri recommends that a “practices and policies” review is instigated in order to ensure no further human rights abuses occur in the course of policing this complex dispute.”

Since making our submission in 2011 nothing has changed insofar as legislation for the GSOC is concerned, nor has there been a “policies and practices” review. However, due to recent revelations about the close links between the Minister for Justice and the Gardaí, and in particular, how a Garda whistleblower was dealt with, there is currently a review of the GSOC legislation being held by a committee in the Oireachtas (Irish parliament). You can see more [here](#). From Afri’s point of view, we hope that some good may come of this review, but note with disappointment the absence of a more specific recommendation in relation to the independence of the GSOC being included in the UPR, which now seems more relevant than ever, in light of recent events.

IHRC response:

[See response to recommendation n°37]

NASC response:

[See response to recommendation n°37]

ICCL response:

[See response to recommendation n°37]

Recommendation n°43: *Ensure that the current budget cuts do not result in stifling the activities of human rights bodies* (Recommended by Turkey)

IRI: *partially implemented*

State of Ireland response:

Please see response to recommendation [37, 38]

IHRC response:

[See response to recommendation n°37]

NASC response:

Significant concerns here - no measures being taken.

TO response:

The Public Service Agreement 2010–2014 states that eight staff positions at IHRC will be suppressed. The IHRC website currently states that four positions are unfilled due to recent funding shortages and six due to the public service recruitment embargo. Between 2008 and 2011, the Equality

Authority budget fell from ca € 5.9 million to ca € 3.06 million; it took up 66% fewer cases in the same period.

Recommendation n°44: *Work with all sectors to ensure the Human Rights and Equality Commission is an effective agent for enhancing the country's commitment to human rights* (Recommended by Australia)

IRI: *fully implemented*

State of Ireland response:

Ongoing. Please see response to recommendation [37, 38]

IHRC response:

[See response to recommendation n°37]

NASC response:

Significant concerns here - no measures being taken.

Recommendation n°50: *Continue the efforts to ensure the exercise of human rights by the sections of society needing special attention from the authorities* (Recommended by Romania)

IRI: *fully implemented*

State of Ireland response:

The Government is committed to protecting the rights of all members of society, particularly the most vulnerable. The human rights of all residents are comprehensively protected by Ireland's Constitution and by equality legislation, which is continuously under review. Public bodies are under clear statutory and constitutional obligations in relation to the treatment of individuals from a human rights and equality perspective. The existing legislative framework includes the Equal Status Acts, the Employment Equality Acts, the Human Rights Commission Acts, the European Convention on Human Rights Act 2003 and the Irish Human Rights and Equality Commission Bill, which was published in March 2014.

Insofar as proposals for significant legislation are put to Government, there is an obligation to conduct a Regulatory Impact Assessment with a specific requirement within that to address gender equality and poverty proofing issues, and the impact on the socially excluded and on vulnerable groups.

The Government has committed in its Programme for Government to require all public bodies to take due note of equality and human rights in carrying out their functions, focusing on ensuring that these issues are centre stage in the public sector reform process underway.



NASC response:

In Programme for Government and new IHREC bill a positive duty to promote human rights

Recommendation n°66: *Ensure specifically that economic measures do not disproportionately impact upon the elderly* (Recommended by Netherlands)

IRI: *partially implemented*

State of Ireland response:

Government policy is to support older people to live in dignity and independence in their own homes and communities for as long as possible and to support access to quality long term residential care where necessary. There is an extensive system of supports and services available to our older people.

**Residential Services**

The purpose of the Nursing Home Support Scheme is to provide financial support for people assessed as needing long-term nursing home care. Almost 23,000 people are in receipt of financial assistance under the Scheme, which will cost over €970m in 2013.

**Community/Home Support Services**

In 2013, 10.3 million hours of home help will be delivered to about 50,000 clients and an additional 10,870 people will receive Home Care Packages. A further approximately 21,500 day care places are available for our older people. Community services will cost in excess of €390m in 2013.

**National Positive Ageing Strategy**

Ireland's National Positive Ageing Strategy, published in April 2013, seeks to ensure that older people are recognised, supported and enabled to lead full and independent lives. The Strategy is based round participation, health, security in the home, and policy supported by research. It is underpinned by the 2002 World Health Organisation Active Ageing Policy Framework and the UN Principles for Older Persons from 1991, which can be summarised as independence, participation, care, self-fulfilment and dignity.

Recommendation n°93: *Continue to allocate financial assistance for developing countries in the framework of Official Development Assistance (ODA) and meet the commitment made in this regard at the international level* (Recommended by Algeria)

IRI: *partially implemented*

State of Ireland response:

Ongoing.

The Government remains committed to achieving the target of 0.7% of Gross National Income allocated to international development cooperation, as stated in the Programme for Government. Recognising the present economic difficulties, the Government will endeavour to maintain aid expenditure at current levels, while moving towards the 0.7% target when our economy improves.

*Recommendation n°114: Take steps to ensure that the current economic crisis does not erode human rights, in particular by developing a National Action Plan on Human Rights as well as by providing continued support and shared experience on human rights worldwide (Recommended by Cambodia)*

*IRI: partially implemented*

State of Ireland response:

See comment under recommendation [37]

Ireland is very open to the idea of developing a National Action Plan on Human Rights and is pursuing this in the context of work at EU level to improve coherence between internal and external human rights policies and actions.

NASC response:

No action taken.

ICCL response:

No Action Plan on Human Rights has been progressed.

*Recommendation n°118: Draw up an integrated and comprehensive human rights plan of action (Recommended by Indonesia)*

*IRI: not implemented*

State of Ireland response:

See responses to recommendations [37] and [114]

NASC response:

No action taken

ICCL response:

This has not been developed.

*Recommendation n°121: Consider strengthening its National Action Plan against Racism (Recommended by Brazil)*

*IRI: not implemented*

State of Ireland response:

Ireland's National Action Plan Against Racism was launched in 2005 and was designed as a four-year programme to run until the end of 2008. The Plan was very ambitious and wide-ranging in its scope. Since its instigation there has been a substantial penetration of anti-racist policies, programmes and activities and awareness-raising initiatives in many areas. The focus now lies on the continued implementation of the sectoral strategies which flowed from the Plan.

See comment under recommendation [54] in relation to tackling racism, xenophobia and other forms of extreme intolerance.

IHRC response:

[...]

- An updated National Action Plan Against Racism (2005 – 2008) has yet to be produced.

NASC response:

No plan in place.

ICCL response:

Currently, Ireland does not have a National Action Plan against Racism.

Recommendation n°122: *Fully explore the possibility of putting in place a new National Plan of Action against Racism* (Recommended by Malaysia)

IRI: *not implemented*

State of Ireland response:

Please see response to recommendation [121]

IHRC response:

[...]

- An updated National Action Plan Against Racism (2005 – 2008) has yet to be produced.

NASC response:

No plan in place and no movement to develop one.

ICCL response:

Currently, the Government has not made any plans regarding this public.

Recommendation n°139: *Amend the Civil Registration Act empowering the registers and the Garda (police) to intervene against sham marriages and to*

*amend the criminal law to criminalize the organizers and facilitators of sham marriages (Recommended by Latvia)*

IRI: *partially implemented*

State of Ireland response:

Please see response to recommendation [85]

NASC response:

Amendment legislation introduced.

ICCL response:

It has been [reported](#) that draft legislation has been prepared by the Department of Social and Family Affairs which would afford a right to civil registrars to investigate a suspected marriage of convenience. This legislation has yet to be published.

*Recommendation n°175: The Government was committed to reducing the time taken to process applications for citizenship to an average of six months (Recommended by Ireland)*

IRI: *fully implemented*

CAIRDE response:

The processing time for citizenship applications has improved dramatically since March 2011. Minister for Justice, Equality and Defence introduced new citizenship application forms and streamlined processes which lead to a significant reduction in processing time of citizenship applications. According to the statistical information provided by the Department of Justice and Equality over 80% of standard applications are now being decided within 6 months.

NASC response:

Significant improvements have been made in processing times.

## Methodology

### A. First contact

Although the methodology has to consider the specificities of each country, we apply the same procedure for data collection about all States:

1. We contact the Permanent Mission to the UN either in Geneva or New York;
2. We contact all NGOs that took part in the process. Whenever NGOs were part of coalitions, each NGO is contacted individually;
3. The National Institution for Human Rights is contacted, whenever one exists.
4. UN Agencies, which sent information for the UPR, are also contacted.

We post our requests to the States and send e-mails to NHRIs, NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation are not contacted and those stakeholders' submissions are not taken into account.

However, since the UPR is meant to be a process that aims to share best practices among States and stakeholders, we take into account positive feedbacks from the latter.

### B. Processing recommendations and voluntary pledges

The stakeholders that we contact are encouraged to use an Excel sheet, which we provide, that includes all recommendations received and voluntary pledges taken by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split among recommendations to which we think it belongs. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention whether the recommendation was “fully implemented” or “not implemented”, *UPR Info* usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

*UPR Info* retains the right to edit comments that are considered to not directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the

recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

### C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for both recommendations received and voluntary pledges taken at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation is given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

### **Disclaimer**

*The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.*



## Uncommented recommendations

Hereby the recommendations which the MIA does not address:

rec. n°	Recommendation	SMR	Response	A	Issue
116	Adopt immediate measures to assign an ad litem tutor or adviser to unaccompanied minors independently of whether an application for protection has been submitted	Uruguay	Rejected	4	Rights of the Child
155	Enact laws and design plans and strategies in the area of combating racism, racial discrimination, and racial profiling and investigate relevant cases to ensure provision of reparations to victims	Egypt	Rejected	5	Racial discrimination
156	Consider reviewing its law on the minimum age of criminal responsibility, to be in conformity with international human rights standards	Timor-Leste	Rejected	3	International instruments, Justice, Rights of the Child
173	The reservation of Ireland to Article 19.2 of the International Covenant on Civil and Political Rights, concerning the licensing of broadcasting enterprises, will be withdrawn	Ireland	Voluntary Pledge	5	Freedom of opinion and expression, Freedom of the press
179	Ireland was also committed to ratification of the Aarhus Convention	Ireland	Voluntary Pledge	5	Freedom of opinion and expression, International instruments

A= Action Category (see on [our website](#))

SMR = State making recommendation

## Contact

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