



# General Assembly

Distr.: General  
22 July 2011

Original: English

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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Twelfth session**  
Geneva, 3–14 October 2011

**National report submitted in accordance with paragraph 15  
(a) of the annex to Human Rights Council resolution 5/1\***

**Ireland**

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## **I. Introduction**

1. The promotion and protection of human rights is central to Ireland's domestic and foreign policies. Our historical experience informs our approach to human rights and our Constitution, through its recognition of fundamental rights, guarantees the individual person freedom, equality and justice. The Programme for Government, published in March 2011, requires all public bodies to take due note of equality and human rights in carrying out their functions.

## **II. Methodology and consultation process**

2. The Government established an interdepartmental working group, supported by the Department of Justice and Equality, to prepare this, Ireland's first report under the UPR process. A dedicated website, [www.upr.ie](http://www.upr.ie), was launched to provide access to information about the UPR process and to facilitate the making of submissions.

3. The Government conducted wide consultation with NGOs and interested stakeholders and will continue this dialogue. In February 2011, the Government invited submissions by advertising in the national press and via NGOs and groups in the education and community and voluntary sectors. 120 submissions were received from individuals, groups and NGOs.

4. Open public consultation meetings were held in seven accessible community/educational venues around the country to offer members of the public and interested NGOs the opportunity to highlight human rights issues of importance to them. A report of the issues raised at each meeting is available on [www.upr.ie](http://www.upr.ie). All submissions received and issues raised at the public meetings were considered and informed the preparation of this report.

## **III. Background and framework**

### **A. General political structure**

#### **The Constitution of Ireland**

5. The basic law of the State is the Constitution of Ireland, adopted by referendum in 1937. It states that "Ireland is a sovereign, independent, democratic state". All legislative, executive and judicial powers are derived from the people. The Constitution sets out the form of Government and defines the powers of the President, the Parliament (in the Irish language, Oireachtas) and of the Government. It defines the structure and powers of the Courts and sets out fundamental rights of citizens.

6. The Constitution can be amended only following approval by a majority of those voting in a referendum of the people.

7. The Government, which came to power on 6 March 2011, intends to convene a Constitutional Convention to consider the need for comprehensive constitutional reform, including consideration of the following specific issues: provision for same-sex marriage; amendment of the clauses on women in the home and insertion of a clause to encourage greater participation of women in public life; and removal of the offence of blasphemy from the Constitution.

8. This broader consideration of reform of the Constitution is in addition to a number of specific issues which the Government is committed to putting to the people by referendum. These include: reversal of the effects of a Supreme Court judgment to enable Oireachtas committees to carry out full investigations, protection of the right of citizens to communicate in confidence with public representatives, and the strengthening of children's rights.

### **System of Government**

9. Ireland is a parliamentary democracy, governed by the rule of law. The Oireachtas consists of the President and two Houses: a directly-elected House of Representatives (Dáil Éireann), and a Senate (Seanad Éireann). All laws passed by the Oireachtas must conform to the Constitution.

10. The President is Head of State and does not have executive functions. On the nomination of Dáil Éireann, the President appoints the Taoiseach (Prime Minister) and, on the advice of the Taoiseach and with the prior approval of Dáil Éireann, the President appoints members of the Government. There may be up to 15 members of the Government. Government policy and administration may be examined and critiqued in both Houses, but under the Constitution, the Government is responsible to the Dáil alone.

11. Ireland also has a system of local Government, based on 34 directly-elected city and county level councils with functions in relation to matters such as planning, housing and provision of certain local services.

### **The Courts**

12. Judges in Ireland are independent both of the executive and the legislature. They are appointed by the President on the nomination of the Government. The Courts are structured on four levels: the District Court, the Circuit Court, the High Court and the Supreme Court. The latter two are referred to as the Superior Courts and may rule on constitutional matters. There is also a Court of Criminal Appeal.

13. In addition to the Courts structure outlined in the preceding paragraph, there is a Special Criminal Court, established in 1972, which sits without a jury. The Government is satisfied that there is a continuing need for this Court to deal with a limited range of offences arising from terrorism and organised crime. This need is kept under continuing review.

### **Access to the Courts**

14. In criminal cases, a scheme of free legal aid is available where the charge carries a possible prison sentence and the Court is satisfied that the accused does not have sufficient means to pay for legal representation.

15. Legal aid is also available for certain civil cases. This scheme is administered by the Legal Aid Board. It is subject to a means test and to the applicant making a contribution to the cost, commensurate with his or her disposable income. While there is a waiting time for an appointment with a solicitor, the Board gives priority to certain categories of cases, such as domestic violence, child care, child abduction and cases where there is a danger that the time limits for issuing proceedings may expire.

16. The Small Claims procedure of the District Court is an alternative method of dealing with a civil proceeding in respect of a small claim. Typical claims are: issues with goods or services purchased from somebody selling them in the course of a business; minor damage to property (excluding personal injuries), and the non-return of a rent deposit for certain types of dwellings. On 5 January 2010, the procedure was expanded to allow for business-

to-business claims of the same nature. Since 1 January 2009, Irish consumers have also been able to use the European Small Claims Procedure to pursue small claims against suppliers or service providers from other countries in the EU. This operates in tandem with our existing small claims procedure, applying only to cross-border cases.

#### **The civil service**

17. Ireland has an impartial, non-political civil service recruited by an independent Public Appointments Service. Ministers are responsible for all the actions of their Departments.

#### **Policing**

18. Ireland has a single, national police service, the Garda Síochána. It is established by legislation and its internal management is subject to regulations made by the Minister for Justice and Equality. The Garda Síochána has operational independence subject to the general financial and regulatory framework set out in legislation.

19. There is an independent Garda Síochána Ombudsman Commission to investigate complaints concerning the conduct of members of the Garda Síochána and a separate independent Garda Síochána Inspectorate. There is also an independent person to whom a Garda can report matters of concern (whistleblower).

#### **Director of Public Prosecutions**

20. The authority to prosecute a person for a criminal offence rests with the Director of Public Prosecutions. The Director is independent in the discharge of his functions and does not answer to any Government or judicial authority for his decisions.

#### **General legal framework within which human rights are protected**

21. Ireland attaches great importance to the protection and promotion of human rights in framing legislation. All draft legislation is examined by the Office of the Attorney General to ensure that it is, inter alia, compliant with the human rights provisions of the Constitution and international human rights obligations.

22. Ireland is committed to continuing to provide support for human rights education and training domestically in order to enhance awareness and respect for human rights. Human rights issues are addressed at both primary and post-primary levels of the education system and there are human rights programmes in a number of third-level education institutions. Human rights also feature prominently in Police and Defence Forces training at all levels. The Irish Human Rights Commission provides training to civil and public servants on their human rights obligations.

#### **The Constitution of Ireland – specified rights**

23. A large number of rights are specifically provided for in the Constitution. They are principally, although not exclusively, to be found in Articles 40-44, under the heading Fundamental Rights. These include: (a) equality before the law (Art. 40.1); (b) the right to life (Arts. 40.3.2 and 3); (c) the right to protection of one's person (Art. 40.3.2); (d) the right to one's good name (Art. 40.3.2); (e) property rights, including the right to own, transfer, bequeath and inherit property (Art. 40.3.2 in conjunction with Art. 43); (f) personal liberty (Art. 40.4); (g) the inviolability of the dwelling (Art. 40.5); (h) freedom of expression (Art. 40.6.1 (i)); (i) freedom of assembly (Art. 40.6.1 (ii)); (j) freedom of association (Art. 40.6.1 (iii)); (k) family rights (Art. 41); (l) the right of parents to provide for children's education (Art. 42.1); (m) the right of children to receive a certain minimum education (Art. 42.3.2); (n) freedom of conscience and the free profession and practice of

religion (Art.44); (o) the right to vote (Arts. 12.2.2, 16.1 and 47.3); (p) the right to seek election (Arts. 12.4.1 and 16.1); (q) the right to have votes treated as being of equal weight (Art. 16); (r) the right to have justice administered in public by judges who are independent (Arts. 34 and 35); (s) the right to criminal trial in Courts of law (Art. 38.1); (t) the right to trial by jury (Art. 38.5); and (u) the right not to have one's acts retrospectively declared to be unlawful (Art. 15.5.1).

### **Unspecified Constitutional rights**

24. The Constitution addresses the issue of personal rights and states:

“The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen” (40.3.1);

“The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen” (40.3.2).

25. In interpreting the provisions of the Constitution, the Courts have identified a number of rights which, although not expressly referred to in the Constitution, are nonetheless provided for by it. The most notable of these unspecified constitutional rights are: (a) the right to bodily integrity; (b) the right to travel within the State; (c) the right to travel outside the State; (d) the right not to have health endangered by the State and freedom from torture and from inhuman or degrading treatment or punishment; (e) the right to litigate and have access to the Courts; (f) the right to legal counsel; (g) the right to communicate; (h) the right to marry; (i) the right to marital privacy; (j) the right to procreate; (k) the rights of an unmarried mother concerning her child; (l) the rights of a child; (m) the right to legal representation in certain criminal cases; and (n) the right to fair procedure.

### **Constitutionality**

26. Under Article 34 of the Constitution, both the High Court and the Supreme Court have the power to assess and determine the validity of any law in terms of its constitutionality.

27. In the event that a Court concludes that a particular law is unconstitutional, that law ceases to have any legal validity.

### **Evidence**

28. The general rule in Ireland is that evidence obtained as a result of a deliberate breach of a person's constitutional rights is inadmissible.

### **Legislation, conventions and treaties**

29. Article 29.3 of the Constitution states that, “Ireland accepts the generally recognised principles of international law as its rule of conduct in its relations with other States”. These principles include human rights law insofar as it forms part of customary international law. Ireland has a dualist system under which international agreements to which Ireland becomes a party do not become part of domestic law unless so determined by the Oireachtas through legislation.

30. Ireland is party to the following human rights treaties adopted under the auspices of the United Nations: the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Civil and Political Rights; the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty; the International Covenant on Economic, Social and Cultural Rights;

the Convention on the Rights of the Child; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; the Convention on the Elimination of All Forms of Discrimination against Women; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Elimination of All Forms of Racial Discrimination; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

31. Ireland has issued a standing invitation to all UN human rights special procedures.

32. Ireland is party to human rights treaties adopted under the auspices of the Council of Europe, including the European Convention on Human Rights. The Convention has been incorporated into domestic law by way of the European Convention on Human Rights Act 2003. The Act provides for rights under the Convention to be pleaded directly before Irish Courts and tribunals rather than cases having to be taken before the European Court of Human Rights in Strasbourg.

33. As a State party to the European Convention on Human Rights, Ireland is obliged to abide by the judgments of the Court in cases to which it is party. Judgments against Ireland have, in a number of cases, required the payment of just satisfaction to applicants as ordered by the Courts. Under the supervision of the Committee of Ministers of the Council of Europe, the Government will continue to take all necessary steps for the execution of the Court's judgments.

34. As a Member State of the European Union, Ireland is bound by the European Charter of Fundamental Rights of the European Union. The Charter recognises specific rights, freedoms and principles (economic and social as well as civil and political), to which EU citizens are entitled when the institutions of the Union and the Member States are implementing Union law.

35. Ireland has signed the UN International Convention for the Protection of all Persons from Enforced Disappearance, and the Convention on the Rights of Persons with Disabilities.

36. On 17 May 2011, the Government approved the preparation of legislation to ratify the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Work is continuing on the preparation of a legislative scheme, with a view to ratification as soon as possible after enactment.

37. The question of possible signature and ratification of the Optional Protocol to the UN International Covenant on Economic, Social and Cultural Rights is under active consideration by the Government.

38. The Programme for Government includes a commitment to complete ratification of the UN Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). Under existing legislation, Ireland is already largely compliant with its provisions. The final requirements will be met following passage of draft legislation currently before the Oireachtas.

## **B. Institutional framework for the protection of human rights**

39. The Government recognises the importance of independent complaints, monitoring and inspection bodies and has established the following such bodies:

### **Irish Human Rights Commission**

40. The Irish Human Rights Commission is an independent body, recognised as operating in line with the Paris Principles, charged with promoting and protecting human rights for all people within the State. It is empowered to make recommendations to Government, including on legislative proposals, and may also conduct inquiries.

#### **The Equality Authority**

41. The Equality Authority works towards the elimination of discrimination and promotion of equality of opportunity in the areas to which equality legislation apply. Its functions also include provision of information to the public about equality legislation, keeping such legislation under review and making proposals for its amendment.

#### **The Equality Tribunal**

42. The jurisdiction of the Equality Tribunal is wide-ranging and includes complaints in relation to employment, occupational benefits, e.g. pensions, and access to and the supply of goods and services, with some exceptions.

#### **National Employment Rights Authority**

43. The National Employment Rights Authority (NERA) was established to achieve a national culture of employment rights compliance. NERA covers many aspects of employment rights, including issues relating to payment of wages, holidays and public holidays, working hours, redundancy, dismissal and notice.

#### **Health and Safety Authority**

44. The Health and Safety Authority has responsibility for the promotion and enforcement of health and safety standards in the place of work. It has the power to inspect all places of work, ensuring compliance with the law, and to develop new standards.

#### **National Disability Authority**

45. The National Disability Authority provides expert advice on disability policy and practice to the Minister for Justice and Equality. Public sector organisations are obliged to promote and support the employment of people with disabilities, and achieve a statutory minimum 3% target of staff with disabilities. The Authority monitors compliance by public bodies and can recommend specific action where a public body is in breach of these obligations.

#### **Ombudsman and Information Commissioner**

46. The legislation setting up the Ombudsman dates back to 1980. The Ombudsman examines complaints concerning the administrative actions of Government Departments, the Health Service Executive, public hospitals and local authorities.

47. While they are in law separate entities, the Offices of the Ombudsman and the Information Commissioner have been held by the same person and the two offices operate together since the Office of Information Commissioner was established in 1997. The Commissioner is responsible for reviewing (on application) decisions of public bodies in relation to Freedom of Information requests and where necessary, making binding, new decisions; reviewing the operation of the Freedom of Information Acts to ensure that public bodies comply with the provisions of the legislation; and preparing and publishing commentaries on the practical operation of the Acts.

#### **Ombudsman for the Defence Forces**

48. Established under the Ombudsman (Defence Forces) Act 2004, the Office provides a complaints procedure for members and former members of the Defence Forces in situations where internal complaints procedures have been exhausted.

### **Ombudsman for Children**

49. The main areas of work of the Ombudsman for Children's Office include independent handling of complaints by young people or by adults on young people's behalf; communication and participation, including supporting people in finding out about children's and young people's rights; and research and policy, including advising the Government on children's rights issues.

### **Data Protection Commissioner**

50. The Commissioner is responsible for upholding the rights of individuals as set out in the Data Protection legislation and enforcing the obligations of data controllers. The Commissioner is independent in the exercise of his or her functions. Individuals who feel their rights are being infringed can complain to the Commissioner.

### **Press Ombudsman and Council**

51. The Press Council of Ireland and the Office of the Press Ombudsman safeguard and promote professional and ethical standards in Irish newspapers and magazines. The Office of the Press Ombudsman ensures that everybody now has access to an independent press complaints mechanism that is quick, fair and free. These structures are designed to ensure that the freedom of the press is never abused, and that the public interest is always served.

### **An Coimisinéir Teanga (The Language Commissioner)**

52. The Office of An Coimisinéir Teanga is a fully independent Office as set out in the Official Languages Act 2003. The functions and powers of the Commissioner are specified in the 2003 Act and essentially are to monitor compliance with the Act by public bodies.

### **Inspector of Prisons**

53. The Inspector carries out regular inspections of the 14 prisons and places of detention, and reports on each institution inspected. These reports, together with an Annual Report, are published.

### **The Health Information and Quality Authority**

54. The Health Information and Quality Authority sets standards for healthcare, both public and private. It inspects healthcare facilities and where necessary, can apply to the Courts for closure orders where standards are not being met.

### **Financial Services Ombudsman**

55. The Financial Services Ombudsman deals independently with unresolved complaints from consumers about their individual dealings with all financial services providers, including in relation to mortgage and other consumer credit matters.

### **Mental Health Commission and Inspectorate of Mental Health Services**

56. The functions of the Mental Health Commission are to promote, encourage, and foster the maintenance of high standards and good practices in the delivery of mental health services and to take all reasonable steps to protect the interests of detained patients.

57. The Inspectorate of Mental Health Services is required by law to visit and inspect every approved centre annually and, as the Inspectorate thinks appropriate, to visit and inspect any other premises where mental health services are being provided. As part of the inspection process, the functions of the Inspectorate include ascertaining the degree of compliance by approved centres with any applicable Code of Practice or statutory regulations.

### **The Citizens' Information Board**



58. The Citizens' Information Board provides free information, advice and advocacy on a broad range of public and social services. It also supports the voluntary network of 105 Citizens' Advice Centres around the country and the Citizens' Information Phone Service.

#### **Money, Advice and Budgeting Service (MABS)**

59. MABS is a national free, confidential and independent service for people in debt or in danger of getting into debt. Funded by the Government via the Citizens' Information Board, MABS operates at a network of centres at local community level that assist people with consumer debt problems, including with mortgage debts.

#### **The Private Residential Tenancies Board (PRTB) and the Rent Tribunal**

60. The PRTB was established under the Residential Tenancies Act 2004 to operate a national tenancy registration system and to resolve disputes between landlords and tenants. The Rent Tribunal was established under the Housing (Private Rented Dwellings) (Amendment) Act 1983 and is the arbitrating body in the determination of the terms of tenancy for formerly rent-controlled dwellings.

#### **Civil society**

61. Ireland is fully committed to a pluralistic and open democracy and values the role played by a diverse and inclusive civil society in this regard. The importance that Ireland places upon this crucial role is reflected in the comprehensive consultation mechanisms that exist between the Irish Government and its social partners. Successive Governments have attached much importance to the role of the NGO community in the human rights area. In order to provide a formal framework for a regular exchange of views between the Department of Foreign Affairs and Trade and representatives of the NGO community, the Joint DFAT/NGO Standing Committee on Human Rights was established, comprising representatives of NGOs and experts, as well as officers of the Department. In addition to the Committee, a Forum on Human Rights, to which all interested NGOs are invited, is held annually.

## **IV. Promotion and protection of human rights**

62. Ireland is deeply committed to the promotion and protection of human rights. As mentioned in paragraphs 23–25 above, the Constitution specifically provides for a large number of rights. This, in effect, constitutes a Bill of Rights for the State. These rights inform the drafting of legislation and the framing of all Government policies. As mentioned above, the Programme for Government requires all public bodies to take due note of equality and human rights in carrying out their functions.

### **A. Equality and non-discrimination**

63. The Employment Equality Acts and the Equal Status Acts prohibit discrimination on nine grounds against those in employment, seeking access to employment or participating in vocational training, and those seeking goods and services. These grounds are gender, civil status, family status, sexual orientation, religious belief, age, disability, race and membership of the Traveller community.

## **B. Right to life, liberty and security of the person**

### **Abolition of death penalty**

64. The death penalty was abolished in law in 1990, and has been specifically prohibited by the Constitution since a referendum in 2002. An individual may not be extradited from Ireland to face the death penalty.

### **Prohibition of torture**

65. The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has been incorporated into Irish domestic law by the Criminal Justice (United Nations Convention against Torture) Act 2000. The Act provides for a definition of torture and creates offences relating to an act of torture by a public official or other person acting at the instigation of, or with the consent or acquiescence of, a public official, regardless of nationality, within or outside the State.

66. Ireland has also ratified the Council of Europe Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Since the Convention came into force in Ireland in 1989, Ireland has been visited by the Committee for the Prevention of Torture (CPT) on five separate occasions.

### **Combating domestic, sexual and gender-based violence**

67. The Domestic Violence Act 1996 provides for a range of measures in relation to domestic, sexual and gender-based violence. A National Strategy on Domestic, Sexual and Gender-based violence is in place. The overall aim of the Strategy is the development of a strong framework for sustainable intervention to prevent and effectively respond to domestic, sexual and gender-based violence. The Strategy is managed by a dedicated Executive Office within the Department of Justice and Equality.

68. The Government is committed to reviewing the law on domestic violence, in such areas as removing the qualifying period for an application for a safety order, protecting victim anonymity and pursuing criminal prosecution for violent or coercive acts, harassment and stalking. Marital rape has been a crime since 1990. A network of domestic violence refuges and services is funded by the Health Service Executive.

69. Ireland is fully committed to the objectives of UN Security Council Resolutions 1325, 1820, 1888, 1889 and 1960 and their implementation is a key priority for the Government. Ireland hopes to launch its National Action Plan on the implementation of Resolution 1325 in 2011. Ireland embarked on an innovative approach to drafting a National Action Plan by combining interdepartmental and civil society consultation with an international cross-learning initiative. This initiative brought together participants from Ireland, Northern Ireland, Liberia and Timor-Leste to draw upon the experiences of those directly affected by conflict on how best to promote women's leadership and protect their interests in conflict resolution and peace-building.

### **Trafficking in persons**

70. Ireland has ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organised Crime.

71. Ireland has also ratified the Council of Europe Convention on Action against Trafficking in Human Beings. A National Action Plan, which sets out the legislative and administrative structures to give effect to the UN Protocol and the Council of Europe Convention, has been published. Dedicated units to combat human trafficking have been

established in the Department of Justice and Equality, the Health Service Executive, the Legal Aid Board and in the Garda Síochána. Dedicated personnel have also been assigned in the Office of the Director of Public Prosecutions and in the Asylum Seekers and New Communities Unit of the Department of Social Protection, to strengthen the response to trafficking. Administrative immigration arrangements are in place for the protection of victims of human trafficking.

72. The Child Trafficking and Pornography Act 1998 created an offence of trafficking in children for the purpose of their sexual exploitation, punishable by up to 14 years imprisonment. It also created new offences of knowingly producing, printing, publishing, exporting, importing, distributing, selling or showing child pornography, for which the penalty is up to 14 years imprisonment and created an offence of possession of child pornography, punishable by up to 5 years imprisonment.

73. The Criminal Law (Human Trafficking) Act 2008 amended the Child Trafficking and Pornography Act 1998 in relation to trafficking in children for the purpose of their sexual exploitation, and created separate offences of trafficking in children for the purpose of their labour exploitation, or the removal of their organs, and trafficking in adults for the purposes of their sexual or labour exploitation, or for the removal of their organs. It also made it an offence to sell or offer for sale, or to purchase or offer to purchase, any person, adult or child, for any purpose. The penalty for these offences is up to life imprisonment and an unlimited fine. It is an offence to solicit or importune a trafficked person for the purpose of prostitution, for which the penalty is up to 5 years imprisonment.

#### **Victims of crime**

74. The Victims of Crime Office is an Executive Office of the Department of Justice and Equality and its core mandate is to support the provision of competent, caring and efficient services to victims of crime by State agencies and voluntary organisations throughout the country.

75. The Government is committed to strengthening the rights of victims of crime and their families through enactment of new legislation. The Government has decided to put formal motions to the Oireachtas to secure an opt-in to the EU Victims' Directive proposal, published on 18 May 2011.

76. The Commission for the Support of Victims of Crime is an independent body allocated a budget from the Department of Justice and Equality to provide funding for services and supports to victims of crime.

#### **Coroner's service**

77. While European Court of Human Rights jurisprudence is taken into account by Coroners in regard to the holding of inquests into suspicious deaths, the Government accepts that the law is in need of revision and proposals for reform are currently before the Oireachtas.

#### **Female Genital Mutilation**

78. Female Genital Mutilation (FGM) is and always has been a crime in Ireland under the common law and general criminal law. A Bill currently before the Oireachtas will specifically prohibit FGM, along with providing for related offences, including extra-territorial jurisdiction in certain circumstances.

### **Abortion**

79. In December 2010, the European Court of Human Rights judgment in the A, B and C v Ireland case found that there was an absence of accessible and effective procedures to enable Ms C establish whether she had a right to a termination under Irish law and this represented a violation of her human rights. Ireland is committed to ensuring that the judgment in this case is implemented expeditiously. In response to the Court judgment, the Government will establish an expert group, drawing on appropriate medical and legal expertise, with a view to making recommendations to Government on how this matter should be properly addressed.

### **Legacy issues concerning people who were in institutional care**

80. In 1999, 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. A redress board was established to make financial awards to assist in the recovery of those involved. By end-May 2011, 13,669 awards had been made with an overall average award value of €62,875. €847 million has been paid in respect of such awards.

81. The position of young girls and women who were residents in Magdalene laundries (the last of which closed in 1996) in past decades has been referred to by the UN Committee Against Torture. The Government believes it is essential to establish the true facts and circumstances relating to the Magdalene laundries. Following a Government decision on 14 June 2011, an interdepartmental committee, with an independent chair, is being appointed with a mandate to clarify any State interaction with the laundries and to produce a narrative detailing such interaction. The question of putting in place a restorative and reconciliation process and the structure that might be utilised to facilitate such process is also being addressed. Any complaint of serious abuse constituting a criminal offence in relation to these institutions will be investigated, and where appropriate, prosecuted.

### **Criminal Justice**

82. The majority of people convicted of offences are fined rather than imprisoned. Questions in relation to overcrowding in prisons and the standard of prisoner accommodation, as well as the need for effective training and rehabilitative programmes, were raised during the consultation process.

83. The prison population has increased constantly in recent years with the total number in custody on 12 April 2011 being the highest recorded to date. Since January 2008, almost 600 additional prison places were constructed and brought into use. The Government accepts that there are problems in relation to prison accommodation, particularly in-cell sanitation and a programme is in place to deal with this issue. All new and re-commissioned prison cell accommodation has in-cell sanitation. Currently, some 72% of cells have in-cell sanitation. Using new technology, the upgrading of more than 100 cells at Mountjoy Prison will be completed by the end of summer 2011. By mid-2012, 80% of the prisons estate will have in-cell sanitation. Feasibility studies are also taking place in relation to the further implementation of this programme of refurbishment.

84. In 2011, the UN Committee Against Torture made concluding observations regarding a proposal to construct a major prison on a greenfield site. The Government has already appointed an expert group to examine the proposal and will consider the matter when that group reports.

85. Prisoners have access to a range of services: medical, dental, vocational, educational and social work. The adequacy of services is kept under review, having regard to available resources.

86. The Courts can place an offender on probation supervision or community service. Where the Court decides on a community-based sanction, the Probation Service is responsible for managing the sanction and supervising the offender. This includes helping offenders to become better citizens and make good the harm done by crime, as well as undertaking whatever steps are appropriate to reduce the risk of future harm or re-offending by the offender.

### **C. Freedom of assembly**

87. Ireland recognises the right to freedom of assembly. There is no permit or notification system in operation.

### **D. Freedom of religion and belief**

88. The Constitution guarantees freedom of thought, conscience and religion. There is no State church in Ireland and the right of all religious groups to organize, own property, undertake religious and social activities and services for their members and participate in public life is respected. There is no registration requirement for Churches or religions.

### **E. Right to participate in public and political life**

89. All resident citizens have the right to vote at all elections and referenda. In addition, British citizens may vote at Dáil elections, European elections and local government elections; other EU citizens may vote at European and local government elections; and non-EU citizens may vote at local government elections only.

### **F. Right to privacy, marriage and family life**

#### **Civil Partnership**

90. The Government is committed to equality for all people. The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 provides for the registration of civil partners and for the consequences of that registration. It also provides for the rights and obligations of cohabitants. It creates in Irish law a scheme under which a gay or lesbian couple can formally declare their allegiance to each other, register their partnership, commit themselves to a range of duties and responsibilities, and at the same time, are afforded a series of protections in the course of their partnership.

91. Same-sex couples now have additional protections and new rights to succeed to the property of each other. In the event of dissolution of the partnership, there will be protections in place for a dependent partner. The tax code is being amended to bring it into line with the new provisions.

#### **Transgender issues**

92. The acquired gender of transgender persons is currently recognised in many official dealings with the State, such as the provision of passports, driving licences and in social welfare, healthcare and revenue matters. In 2010, an advisory group was established to advise on further legal recognition of transgender persons and is expected to submit its

report to the Minister for Social Protection shortly. The prohibition of discrimination on the gender and disability grounds under employment equality law also prohibits adverse treatment of persons based on their transgender status.

#### **Family Law issues**

93. Family law cases are dealt with in private Court sittings. The objective is to protect the identity of the parties to what are clearly cases involving very sensitive and private matters. However, in practice, this has meant that cases are heard in camera, with the unintended effect that there is little transparency or public awareness of what is happening in the family law system.

94. Arrangements have been put in place in recent years to allow reporting of the outcome of a limited number of family law cases. This has led to an improvement in public access to information about the operation of the law in this area, while protecting the identity of the parties. The Government intends to review this issue further with a view to ensuring that information on cases and outcomes is made public on a systematic basis, without compromising the confidentiality of the identity of the parties to family law cases.

#### **Rights of adopted people**

95. The Adoption Act 2010 was enacted to improve standards in both domestic and inter-country adoption. Under this Act, the regulatory framework governing adoption has been strengthened in an attempt to ensure that the best interests of children are protected at every step throughout the adoption process.

96. The number of people and, in particular, the number of adopted people and natural parents seeking adoption information has increased in recent years. The Adoption Authority – the statutory authority for adoptions – and the Health Service Executive assist adopted people, parents who have placed children for adoption, adoptive parents, and natural family members of people placed for adoption.

97. The Adoption Authority has established a National Adoption Contact Preference Register to facilitate contact between adopted people and their natural families. Participation is voluntary and contact through the register can only be initiated where both parties register.

### **G. Right to work and to just and favourable conditions of work**

98. Ireland has in place a strong corpus of employment rights legislation across the full range of employment rights, including the setting of a national minimum wage, hours of employment, holiday entitlements, rest periods, the provision of information and consultation, which is supplemented by a strong legislative base of rights under health and safety legislation.

99. Ireland's system of industrial relations is based on a voluntary approach with terms and conditions of employment being determined in the main by a process of voluntary collective bargaining between the parties, without the intervention of the State. However, to support the process and ensure a level of fair play, a floor of statutory rights is in place that can be improved upon by negotiation but cannot be taken away.

100. While Article 40 of the Constitution guarantees the right of citizens to form associations and unions, it has been established in a number of legal cases that the constitutional guarantee of the freedom of association does not guarantee workers the right to have their union recognised for the purpose of collective bargaining. There is a commitment in the Programme for Government to ensure that Irish law on employees'

rights to engage in collective bargaining is consistent with recent judgments of the European Court of Human Rights. This process will require consultation with stakeholders, including employer and worker representatives, and a review of the experience of the operation of the existing legislative framework put in place under the Industrial Relations Acts of 2001 and 2004 and the consequences of litigation that has arisen.

## **H. Social security and the right to an adequate standard of living**

101. The Government is committed to protecting the vulnerable. The social welfare system provides comprehensive supports for vulnerable people and comprises two main elements; a social security or contributory system funded by contributions from employees, self-employed, employers and, when necessary, an exchequer subvention; and a means-tested social assistance system funded entirely by taxation. Both elements provide cover for sickness, maternity, invalidity, survivors, occupational injuries and diseases, death grants, unemployment, old age pensions and family benefits etc. for those habitually resident in Ireland. The social welfare system includes a universal Child Benefit scheme. In 2010, overall expenditure on social welfare schemes was some €21 billion, which represents 34% of Government current spending.

102. In line with expenditure reductions in all areas, including public sector pay, payments of certain social benefits have been reduced. However, to protect older people, payment of Social Welfare Old Age Pensions has been maintained, as has free travel on public transport for those aged 66 and over.

103. Where a person is dissatisfied with any decision relating to benefit entitlements, the decision can be appealed to the independent Social Welfare Appeals Office.

## **I. Right to health**

### **Access to health care**

104. €15.3 billion was allocated to health services in 2010, representing 27% of gross current Government expenditure. Under legislation, all residents can receive publicly-funded hospital services. These services are subject to a limited charge, but widely applicable exemptions apply to this.

105. Approximately 37% of the population is provided with publicly-funded general practitioner services and prescription drugs, as well as other primary care services. Apart from a €0.50 charge for prescription items, these services are provided for free.

106. A number of other schemes provide assistance towards the cost of medicines to the remainder of the population. For example, under the Drugs Payment Scheme, no family has to pay more than €120 per month for approved prescribed medicines.

### **Autism**

107. The overall policy is set out in *Services to Persons with Autism*, first published in 1994. The Health Service Executive funds services for individuals with autism spectrum disorders from childhood to adulthood. These services, provided by both statutory and voluntary sector agencies, cover assessment, diagnosis and ongoing treatment and intervention supports, including home support services, respite services and multi-disciplinary team supports.

108. A National Review of Autism Services is currently underway and will identify the core principles of service delivery and standards of practice that will guide national autism services.

### **Mental Health**

109. Government mental health policy is set out in *A Vision for Change*. This report, launched in 2006, provides a framework for action to develop a modern, high-quality, community-based, person-centred mental health service over a seven- to ten-year period.

110. *Reach Out*, the National Strategy for Action on Suicide Prevention, is based on a multi-sectoral approach to the prevention of suicidal behaviour, in order to foster cooperation between health, education, community, voluntary and private sector agencies. The National Office for Suicide Prevention oversees the implementation of the strategy.

111. The concluding observations of the UN Committee Against Torture in relation to the definition of a voluntary patient and the reclassification of patients with a mental illness from voluntary to involuntary will be addressed in the context of the review of the Mental Health Act 2001, which is currently underway.

### **National Drugs Strategy**

112. The policy framework on drugs is the National Drugs Strategy 2009–2016. It constitutes an interim policy pending the development of the broader Substance Misuse Strategy that is to be formulated to include alcohol and drugs in a combined National Substance Misuse Policy. A key principle underpinning our approach is to address the problem in a partnership way involving statutory, community and voluntary treatment providers.

## **J. Right to housing**

113. Local authorities are responsible for the maintenance and management of the 130,000 social housing units across the country. A Social Housing Investment Programme supports the provision, by local authorities, of new social housing units as well as a range of measures aimed at improving the overall quality of the housing stock, ranging from large-scale urban regeneration programmes and estate-wide improvement works to refurbishment works on individual social housing units. Large-scale regeneration projects are underway in Ballymun and Limerick. Further priority projects will be addressed as resources allow.

114. The voluntary and co-operative housing sector has been assisted to provide some 25,000 accommodation units to date to meet the needs of older people, persons with a disability or other groups with specific categories of housing need, including the homeless, victims of domestic violence, etc.

## **K. Rights of the child**

### **Establishment of dedicated Department of Children and Youth Affairs**

115. In accordance with the Government's commitment to the protection of the rights of children, a dedicated Government Department of Children and Youth Affairs was established by the Government in June 2011. The Department will lead the development of harmonised policy and quality integrated service delivery for children and young people, and will carry out specific functions in the social care field, driving coordinated actions across a range of sectors, including health, education, youth justice, sport, arts and culture.



In line with Article 12 of the UN Convention on the Rights of the Child, the new Department of Children and Youth Affairs is committed to promoting and supporting meaningful participation by children and young people in issues that affect them through collaborative interaction between the participation and research experts within the Department. This collaboration will ensure that best practice in young people's participation is a priority and that outcomes are robust and evidenced-based.

### **Proposal for a constitutional referendum on Children's Rights**

116. The Programme for Government states that a referendum on Children's Rights is a priority. On taking office, the Minister for Children and Youth Affairs commenced discussions with the Attorney General, with a view to preparing a draft wording.

### **Child Protection**

117. Over the last number of years, there has been a growing awareness of the extent of clerical sexual abuse of minors, and concern at how such cases were handled. While individuals have been convicted and sentenced and Garda investigations are ongoing, the Government established a Commission of Investigation which has examined the handling of such cases by Church and State authorities in the Catholic Archdiocese of Dublin and the Diocese of Cloyne, in respect of which there were particular concerns.

118. While not all of the reports have been published in full because individuals are still before the Courts, the Catholic hierarchy has put in place revised arrangements for dealing with the issues, supervised by a lay person. The Government is monitoring the effectiveness of these arrangements.

119. There have been failings in the State child-protection system as well. The Government recently decided that responsibility for child protection should be moved from the Health Service Executive to a standalone agency whose sole responsibility will be child protection. Arrangements are in place for the vetting by the Garda Síochána of those seeking employment where they would have substantial access to children.

## **L. Right to education**

120. The right to education is enshrined in Article 42 of the Constitution. Education in Ireland broadly comprises five levels: pre-school, primary, post primary, adult and further education, and higher education. Gross Current Expenditure on Education increased by 121% between 2000 and 2009, from €4.23 billion to €9.36 billion. Given the current financial constraints, the resources available for education are being deployed in as efficient and effective a manner as possible.

121. Pre-school, primary and post-primary education for the vast majority of students is free. Additional resources are allocated to schools to cater for students with specific educational needs such as students from lower socio-economic backgrounds attending designated schools, language support for migrants, and special needs and disability students. The development of literacy and numeracy competence of students is prioritised. On 8 July 2011, the Minister for Education and Skills is scheduled to launch the national strategy to improve the literacy and numeracy of children and young people.

122. Participation in higher education has grown at an unprecedented rate over the last four decades. The entry rate to higher education was approximately 65% of 18-year olds in 2010, up from 55% in 2004. Funding for Higher Education increased by 80% over the period from 2000 to 2010, from €942 million to almost €1.7 billion. The majority of student funding is provided through the Free Fees Initiative and student grant schemes.

### **Pluralism and Patronage**

123. Arising from the historical development of the primary education system, 96% of education provision at primary level is denominational, largely under the patronage of the Catholic Church (89.6%). Significant demographic and societal changes have taken place in recent years, leading to increased demand for new forms of multi-denominational and non-denominational schooling, as well as increased demand for Irish-language schooling.

124. In April 2011, the Government launched the Forum on Patronage and Pluralism in the Primary Sector. The challenge is to ensure that the rights of parents and their children are respected both in existing and new patronage arrangements. The Forum will also examine the role of religious education in primary schools in the context of its work. The Advisory Group to the Forum will analyse submissions received from over 200 stakeholders, consult and examine relevant data to assist them in preparing their report to the Minister for Education and Skills by the end of 2011.

## **M. Older people**

125. A Minister of State has been assigned responsibility for older people's issues. The priorities will be to complete and implement the National Positive Ageing Strategy and to drive the Government's agenda to enable people as they grow older to maintain and improve their physical, social and mental well-being and to live in their homes and communities for as long as possible.

126. The Strategy aims to ensure that older people are recognised, supported and enabled to live full, independent lives. It will set out a framework for the development of operational plans by Government Departments, as well as for the development of ongoing mechanisms to monitor progress and identify challenges facing older people in the future.

### **Elder Abuse**

127. The Health Service Executive's Elder Abuse Service is comprised of a dedicated staffing structure throughout the country, unified data collection, national and regional oversight mechanisms, a research facility and awareness and training programmes. Among the responsibilities of the assigned Senior Case Worker, in conjunction with the appropriate health service providers, is the assessment/investigation and provision of supports, where necessary, in relation to suspected cases of elder abuse. The duties of Elder Abuse Officers include overseeing, reviewing and development of policies at local and national level.

## **N. Rights of persons with disabilities**

128. Ireland is committed to ratification of the Convention on the Rights of Persons with Disabilities as quickly as possible. The intention is that this will be done as soon as the necessary Bill to reform our Mental Capacity laws is enacted. The Government intends that this Bill will be introduced in the Oireachtas before the end of 2011.

129. The aim of the Government is to ensure that as many people with disabilities as possible are assisted to live full lives with their families and in their communities.

130. *National Quality Standards: Residential Services for People with Disabilities* was published by the Health Information and Quality Authority (HIQA) in 2009. The standards provide a national framework for quality, safe services for people with disabilities living in residential settings. The Programme for Government includes a commitment to put these standards on a statutory footing and ensure that such services are inspected by HIQA.

## O. Situations particular to Ireland – the Traveller Community

131. Between 2008 and 2010 a total of €363 million was expended on Traveller-specific programmes across a range of areas; health, education and housing in particular. For example, improvements in Traveller participation rates in all sectors of education have been increasing steadily over the last 25 years.

132. The question of recognition of Travellers as an ethnic group has been the subject of extensive discussion with National Traveller Organisations. There is a wide divergence of opinion among Irish Travellers in relation to the question of ethnicity, and no consensus that recognition would be a useful step.

133. All the key anti-discrimination legislation specifically identifies Travellers by name as a social group which is given special protection in law. The Equality Act 2004, which transposed the EU Racial Equality Directive, applied all the protections of that Directive across all the grounds, including the Traveller Community ground.

134. Each housing authority is required to draw up, adopt, and implement multi-annual Traveller Accommodation Programmes. From 2008–2010, a total of €70.7 million in capital funding was provided to local authorities from central Government for Traveller-specific accommodation. A further €20.78 million in current funding was recouped to local authorities for the salaries of social workers employed to work with Travellers.

135. Significant progress has been made in the provision of Traveller accommodation in recent years. Concrete evidence of a high level of delivery is apparent in the significant reduction in the number of families living on unauthorised sites. In 1999, prior to the first Traveller Accommodation Programme, the Annual Count of Traveller families estimated that there were a total of 4,790 Traveller families in the State. 25.2% of these families were living on unauthorised sites. The 2010 Annual Count identified a total of 9,470 Traveller families in the State. In spite of the increase of 4,680 families between 1999 and 2010, only 4.7% of the 9,470 families were living on unauthorised sites in 2010.

136. The *All-Ireland Traveller Health Study* published in September 2010 has provided the basis for coordinated and targeted action to respond to the health issues experienced by Travellers. Arising from the findings of the study, priority areas for action have been agreed. These are: mental health; suicide; men's health; addiction/alcohol; domestic violence; diabetes and cardiovascular health. Existing resources allocated to Traveller health will be focused towards addressing these priority areas. The necessary cross-sectoral actions on a range of health, education and accommodation matters is being progressed.

## P. Women's rights and gender equality

137. Ireland has ratified the UN Convention on the Elimination of Discrimination Against Women. Despite the progress that has been made, inequalities on the gender ground still exist. Workplace gender discrimination continues to be reported annually, with on average, women being paid 17% less than men and ongoing occupational sex segregation. Childcare and eldercare responsibilities often hinder the advancement of women in their careers. Women continue to be under-represented in decision-making roles, particularly in the political arena and as company executives and members of corporate boards.

138. To address these areas, gender equality policy in Ireland consists of a number of components. The comprehensive National Women's Strategy 2007–2016 is an all-of-Government commitment to foster the advancement of women in all facets of their lives. The Strategy, which contains 20 key objectives and over 200 actions, aims to equalise

socio-economic opportunity for women, ensure their well-being and engage women as equal and active decision-makers. The Government and the European Social Fund have made funding available for a programme of positive actions to support gender equality. These include increasing women's participation in employment, supporting women entrepreneurs and assisting those in employment to advance their careers.

139. The Government also has a social protection programme including maternity leave and other family-friendly initiatives to support women in reconciling work and family life. Irish maternity leave provisions compare favourably with EU averages. The Government has contributed significantly to the expansion of childcare services to support the childcare needs of women who are in employment, education or training, including the provision of a free pre-school year for those aged under 4 years and 6 months. The Government has increased child benefit very significantly over the past ten years to make financial assistance available to parents to support the care of their children.

140. The Constitutional Convention will consider if there is a need to amend the clauses on women in the home and encourage greater participation of women in public life. Separately, the Government has announced reforms to electoral legislation in order to increase the participation of women in politics. Under these plans, political parties will see their State funding halved if they do not meet the new requirements to have at least 30% women and 30% men candidates at the next Dáil general election. This will rise to 40% after seven years. This initiative is intended to incentivise a shift towards gender balance in Irish politics.

## **Q. Migrants, refugees and asylum seekers**

141. Preliminary results from Census 2011 show that the total population was 4,581,269 on 10 April 2011. This represents an increase of 8.1% over the past five years since the last Census in 2006. The Quarterly National Household Survey for the first quarter of 2011 estimated that there were 357,300 non-Irish nationals aged over 15 living in Ireland. Other official information available shows that there were approximately 190,000 non-Irish children (under the age of 18) in Ireland in January 2011.

142. The law relating to the control of entry into the State, the duration and conditions of stay in the State, obligations while in the State and removal from the State of non-Irish nationals is set out in a number of legislative measures, some dating back to 1935.

143. The Government is committed to the introduction of comprehensive legislation setting out in one statute the conditions for entry, residence and protection in Ireland.

144. For those seeking international protection who cannot support themselves, the Government provides full-board accommodation pending a final determination of their claims. Health and education services for this group are provided in the community in the same way as for Irish citizens. Currently, there are 5,800 protection seekers, including asylum seekers, in 46 full-board accommodation centres around the country and the cost of the system in 2010 was €79 million.

### **Naturalisation**

145. The Government considers that there have been unacceptable delays in processing citizenship applications and recently announced new measures to streamline the application process. Under the new system, by mid-2012, persons applying for citizenship will, in general, be given a decision on their application within six months. In addition, steps have been taken to make the application process more accessible, including producing more user-friendly application forms.

146. To give proper recognition to the importance of a person being granted Irish citizenship, a Citizenship Ceremony has been introduced; the first of these took place on 24 June 2011.

#### **Anti-racism measures**

147. Ireland is firmly committed to eliminating all forms of racial discrimination. As a follow-up to the UN World Conference Against Racism in Durban, South Africa in 2001, Ireland developed a National Action Plan Against Racism for the period 2005–2008, with an overall focus on supporting key stakeholders in the development of locally-based anti-racism strategies and social inclusion measures to promote diversity. Intercultural strategies, including health, education and arts strategies, and a workplace diversity strategy, continue to be implemented.

### **R. Transparency and good corporate governance**

148. The Government Programme includes a commitment to introduce Whistleblowers' legislation. The Department of Public Expenditure and Reform is working on developing legislative proposals to protect those who speak out against wrongdoing or cover-ups, whether in the public or private sector.

### **S. Foreign policy and overseas development aid**

149. The promotion and protection of human rights and fundamental freedoms has always been a cornerstone of Irish foreign policy. Ireland has a strong record of providing assistance to developing countries to address poverty, vulnerability and marginalisation. Ireland focuses on developing the institutions and capacity within developing countries to do this themselves, guided by the Millennium Development Goals. Ireland's official aid programme, Irish Aid, is an integral part of the Department of Foreign Affairs and Trade. Despite current economic difficulties, Ireland has continued to allocate over 0.5% of GNP to Official Development Assistance (ODA). In 2010, Ireland provided 0.53% of GNP for ODA. The Programme for Government (March 2011) has confirmed the commitment to the 0.7% of GNP target for ODA, and to seeking to achieve it by 2015.

150. Ireland recognises that the enjoyment of all human rights – civil, cultural, economic, political and social – is essential for development. Equally, development is essential to enable the full enjoyment of those rights. Irish Aid supports human rights work in a number of important ways. Expenditure on governance and civil society, for example, amounts to around 15% of our total budget, much higher than the OECD average. Support is also provided to the Office of the High Commissioner for Human Rights, and other human rights initiatives. Through Irish Aid, Ireland provides funding to a wide range of NGOs working on human rights issues and supports national human rights commissions in a number of developing countries.

## **V. Concluding comment**

151. Ireland's commitment to the promotion and protection of human rights is an underlying principle of our policy in all spheres. Our deep attachment to the importance of fundamental rights and freedoms for all is grounded in our historical experience. Work on the Government's overall goal to achieve full respect for human rights in practice, building on the legal framework in our Constitution and domestic legislation, as well as the international treaties and conventions to which we are a party, and our achievements to

date, will continue. We strongly believe in the need for a shared effort to advance the values at the heart of the Charter of the United Nations and welcome the opportunity to present this, our first UPR report.

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