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Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

Ireland

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

1. Ireland welcomes the recommendations made in the course of its UPR on 6 October 2011 and after careful consideration, is pleased to provide the following responses, to be included in the outcome report.

107.1 PARTIALLY ACCEPTED

2. Ireland was in the first group of countries to sign the CRPD and is committed to its ratification, once the necessary legislative and administrative arrangements for its implementation are in place. Once CRPD has been ratified, the Optional Protocol will be examined with a view to signature and ratification in due course.

107.2. ACCEPTED

3. Ireland has ratified the core UN human rights treaties and is committed to continuing the process of accession to or ratification of the pending main international human rights instruments. It is important to note that 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 amending domestic law as necessary.

107.3. PARTIALLY ACCEPTED

4. Ireland has withdrawn our reservation under Article 19 (2) of the ICCPR after the publication of General Comment 34 by the Human Rights Committee.

5. Ireland accepts the principles referred to in paragraph 2 of article 10 and implements them as far as practically possible. It reserves the right to regard full implementation of these principles as objectives to be achieved progressively. Ireland also accepts the principle in paragraph 1 of article 20 and implements it as far as it is practicable.¹

107.4. PARTIALLY ACCEPTED

6. The Government is embarking on a major reform programme for the health system, the aim of which is to deliver a single-tier health service that will ensure equal access to care based on need, not income. This will be achieved through the introduction of universal health insurance.

7. Ireland will sign the Optional Protocol to the ICESCR shortly.

8. 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.

107.5. PARTIALLY ACCEPTED

9. See comment under 107.3 in relation to ICCPR.

10. At this time, Ireland does not intend to withdraw its reservations under Article 2.2 and Article 13.2 (a) of the ICESCR. These reservations are kept under review.

¹ Having regard to the difficulties in formulating a specific offence capable of adjudication at a national level in such a form as to reflect the general principles of law recognised by the community of nations as well as the right to freedom of expression, Ireland reserves the right to postpone consideration of the possibility of introducing some legislative addition to, or variation of, existing law until such time as it may consider that such is necessary for the attainment of the objective of paragraph 1 of article 20.

11. Ireland has no plans to withdraw the reservation on article 4 of ICERD. Notwithstanding the reservation, Ireland has strong legislation prohibiting incitement to racial hatred.

107.6. NOT ACCEPTED

12. 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.

107.7. PARTIALLY ACCEPTED

13. We believe that it is never acceptable for individuals to be targeted and pilloried because of their race, colour, religion or national or ethnic origins or identity and the Government is committed to combating all manifestations of racism. For this reason, robust practical and legal measures against racial discrimination, racism and xenophobia are already in place in existing and forthcoming legislation².

14. See response under 107.6 in relation to the 1960 Convention.

107.8. ACCEPTED

15. The examination of Ireland's Joint 3rd and 4th State report to the UN CERD took place on 22–23 February 2011. At its 2089th meeting³ on 09/03/2011, the Committee noted a number of positive aspects as well as making recommendations when it adopted its concluding observations; these recommendations are currently being considered by the Government.

107.9. ACCEPTED

16. It is envisaged that an Amendment to the Constitution Bill will be published by the Government with a view to a referendum on strengthening children's rights being held this year. The recent appointment of a senior cabinet Minister with responsibility for Children and Youth Affairs illustrates the Government's commitment to protecting children's rights.

107.10. ACCEPTED

17. While the CRC has not been formally incorporated into Irish law, both the spirit and aims of the Convention are significantly reflected in Irish public policy and Irish law is in conformity with the Convention. The Convention is reflected in key legislative and policy developments in recent years relating to the protection of children.

107.11. PARTIALLY ACCEPTED

18. A number of measures are currently being implemented to enhance the position and protection of children in Irish society.⁴

² Existing legislation: Prohibition of Incitement to Hatred Act 1989, Equal Status Acts 2000-2008, and Employment Equality Acts. Forthcoming legislation: Immigration, Residence and Protection Bill.

³ CERD/C/SR 2089

⁴ For example, a Department of Children and Youth Affairs has been established and the Government is committed to extending the remit of the Ombudsman for Children to 3rd level institutions, along with extending the Freedom of Information Act and the Ombudsman Act, to ensure that all statutory bodies, and all bodies significantly funded from the public purse, are covered.

107.12. ACCEPTED

19. The Government remains committed to protecting the position of the most vulnerable in society. Ireland has a robust framework for protection of vulnerable groups generally, which is being strengthened by the amalgamation of our Equality Authority and Human Rights Commission.

107.13. ACCEPTED

20. Ireland is deeply committed to the promotion and protection of human rights and already has a robust legal framework in place to protect against discrimination. Legislation in this area is continuously under review.

107.14. ACCEPTED

21. Ireland has in place many legislative protections to ensure equality and non-discrimination in the workplace. The existing legislative framework includes the Equal Status Acts and the Employment Equality Acts.

22. With regard to women in public life, the Programme for Government⁵ contains a commitment to tie public funding for political parties to the level of participation by women as candidates achieved by each party, and on 8 June 2011, the General Scheme of the Electoral (Amendment) (Political Funding) Bill 2011 was published.

107.15. ACCEPTED

23. See comment under 107.7.

107.16. ACCEPTED

24. Mental Capacity legislation will be introduced to reform the law in this area to bring it into line with the CRPD requirements.

107.17. PARTIALLY ACCEPTED

25. Ireland is developing proposals for a Constitutional Convention⁶. One of the issues the Government is asking the Convention to consider is the removal of blasphemy from the Constitution. The future of legislative developments in this area depends therefore on the work of the Convention and actual amendment of the Constitution can only be by a referendum of the people.

107.18. PARTIALLY ACCEPTED

26. Ireland attaches great importance to the protection and promotion of human rights at home and abroad and the Government is committed to tackling the economic crisis in a way that is fair, balanced, and which recognises the need for social solidarity. Ireland's human rights and equality infrastructure is being strengthened by the amalgamation of the Human Rights Commission and the Equality Authority. An initial task for the new body will be to draw up and agree with the Oireachtas⁷ a strategic plan setting out how it will fulfil its mandate to promote and protect human rights and equality.

⁵ The Programme for Government was adopted in March 2011

⁶ As mentioned at our interactive dialogue on 06/10/2011.

⁷ Ireland's national parliament

107.19. PARTIALLY ACCEPTED

27. While the Government accepts the spirit of this recommendation and will draw the attention of the independent Judicial Studies Institute to the recommendation, it is not possible to formally accept this recommendation as Ireland has strict separation of powers.⁸ Judicial training is organised by the judiciary itself in order to ensure that their Constitutional independence is fully respected.

107.20. NOT ACCEPTED

28. Arrangements are in place to meet the needs of unaccompanied minor asylum seekers relating to accommodation, medical and social needs, as well as their application for refugee status.⁹

107.21. ACCEPTED

29. This issue will be dealt with in the Immigration, Residence and Protection Bill, which will set out principles under which ministerial regulations will detail how family cases should be dealt with.

107.22. PARTIALLY ACCEPTED

30. See comment under 107.18.

107.23. PARTIALLY ACCEPTED

31. An Annual Report on the achievements of the National Women's Strategy is submitted to the Government and is published every year.

32. The Strategy includes a commitment to a periodic review. The first such Review will be completed shortly. It will be submitted to the NWS Monitoring Committee for consideration and may also be submitted to Government. The Monitoring Committee contains independent members.

107.24. PARTIALLY ACCEPTED

33. Existing legislation already provides for prohibition of racial discrimination, and for humanitarian treatment of migrants and persons of non-Irish origin. Comprehensive training in these areas is provided to members of An Garda Síochána.

34. See comment under 107.19 in relation to the independence of the judiciary.

107.25. ACCEPTED

35. Ireland is committed to ensuring that all forms of racism are combated in the most comprehensive manner. The National Action Plan Against Racism (2005-2008) was designed to provide strategic direction towards developing a more intercultural and inclusive society in Ireland. Many of its initiatives which were instigated through the Plan continue to be developed and progressed through the support and work of the Office for the

⁸ Article 35.2 of the Constitution provides that: 'All judges shall be independent in the exercise of their judicial functions and subject only to this Constitution and the law'.

⁹ In developing guidelines in relation to the determination of such applications, account was taken of past experience, UNHCR guidelines and advice, as well as the EU Children First Programme.

Promotion of Migrant Integration (OPMI)¹⁰, which maintains the Government commitment and focus on antiracism as a key aspect of integration and broader national social policy.

107.26. ACCEPTED

36. See response to 107.25 above.

107.27. ACCEPTED

37. A number of initiatives have already commenced in relation to promote pluralism and choice in the school system and to cater for children of all belief backgrounds.

107.28. ACCEPTED

38. See response to 107.7.

107.29. ACCEPTED

39. 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. At a police operational level, many practical arrangements are in place in co-operation with community and voluntary groups to tackle racist crime and encourage victims to come forward to report.

40. The Office for the Promotion of Migrant Integration monitors trends in reports of racist incidents and maintains good relationships with the relevant agencies responsible for complaints mechanisms.

107.30. ACCEPTED

41. 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.

107.31. ACCEPTED

42. Ireland has a robust legal framework in place to protect vulnerable groups against discrimination, including members of the Traveller community. The Programme for Government 2011 includes a commitment to improve co-ordination and integration of delivery of services to the Traveller community.

107.32. ACCEPTED

43. See response to 107.31 in relation to the Traveller community. See response to 107.29 in relation to monitoring racist incidents.

107.33. NOT ACCEPTED

44. As outlined at Ireland's interactive dialogue in October 2011, there are a number of issues around the proposal of recognition of Travellers as a separate ethnic minority which need to be further considered and addressed and it is an area which is currently being given serious consideration.

¹⁰ The Office for the Promotion of Migrant Integration (OPMI) was established to maintain and strengthen the Government's initiatives to combat racism.

107.34. ACCEPTED

45. The Government is committed to addressing the issue of in-cell sanitation in line with its Programme for National Recovery and considerable progress has been made in this area.

107.35. ACCEPTED

46. Ireland continually takes measures to safeguard against the detention of asylum seekers and to avoid situations where asylum seekers may be held in the general prison population. Persons served with a Deportation Order who comply with the reporting requirements placed on them by the Garda National Immigration Bureau are not detained. Detention is only used in circumstances where failed asylum seekers seek to evade deportation.

107.36. ACCEPTED

47. In June 2007, Ireland established Cosc, a 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 supports groups at local, regional and national level to raise awareness of domestic violence and of services available for victims.

107.37. ACCEPTED

48. Ireland can accept in principle the terms of the Convention.¹¹

107.38. ACCEPTED

49. 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. The Law Reform Commission is scheduled to begin a further review of this legislation this year. The Programme for Government also includes a specific commitment to reviewing domestic violence legislation. It is envisaged that this review will be informed by the Commission's review.

50. Strategies for improved domestic and sexual violence data collection, collation and presentation are being developed.

107.39. PARTIALLY ACCEPTED

51. The existing statutory Prison Rules, which substantially comply with the Bangkok Rules, are currently being reviewed with a view to their being updated and amended. The review will include consideration of the remaining elements of the Bangkok Rules. In addition, the Inspector of Prisons *Standards for the Inspection of Prisons in Ireland – Women Prisoners' Supplement* were also significantly informed by the Bangkok Rules. Ireland is also about to embark on a strategic review of penal policy which will look at the issue of women prisoners in the criminal justice system and consider alternatives to prison custody.

¹¹ 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.

107.40. ACCEPTED

52. The Government has apologised to those who had been victims of childhood abuse while in institutional care¹². 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.¹³

107.41. PARTIALLY ACCEPTED

53. This matter is under continuous review. 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. Details of any possible future significant developments in this area will be communicated to the UN CRC.

107.42. PARTIALLY ACCEPTED

54. See comment under 107.41.

107.43. ACCEPTED

55. The issue of sham marriages is being addressed in legislation to amend the Civil Registration Act and also the Immigration Residence and Protection Act 2010, focussing respectively on making such marriages harder to contract and less beneficial in immigration terms. However, the protection of marriage under the Irish constitution makes criminalisation of an act of marriage willingly entered into highly problematic.

107.44. ACCEPTED

56. As noted above, Ireland is committed to achieving an inclusive society, a society in which discrimination has no place. In order to achieve this, Ireland is committed to reviewing this issue through the Constitutional Convention.

107.45. PARTIALLY ACCEPTED

57. The specific provision of the Employment Equality legislation referred to has been considered by the Supreme Court as striking a reasonable balance between the right to the free profession and practice of religion, on the one hand, and the principle of equality, on the other. The application of this provision in individual instances is subject to an objective review by the courts so as to reconcile the competing constitutional rights involved. Ireland is committed to an inclusive society and to ensuring 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. The Government is currently examining how this commitment can be implemented. Ireland also has strong protection in our legislation against discrimination on grounds of family status.

107.46. PARTIALLY ACCEPTED

58. While Article 40 of the Irish 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.

¹² As indicated in Ireland's National Report.

¹³ 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.

59. There is a commitment in the Programme for Government to ensure that Irish law on employees' right to engage in collective bargaining is consistent with recent judgments of the European Court of Human Rights.¹⁴

107.47. ACCEPTED

60. See comments under 107.27 and under 107.48.

107.48. NOT ACCEPTED

61. There is a growing non-denominational school sector in Ireland, particularly at primary level. These schools cater for all pupils and there is no denominational involvement in their governance. The existing system of school admissions is currently under review, and issues of access are being considered as part of that review process. Religious groups are free to establish their own schools to cater for members of their particular faith. This religious freedom is a core element in our system at primary and secondary level.

107.49. ACCEPTED

62. 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.

107.50. ACCEPTED

63. The broad consultations undertaken by the Government in preparation of the national report have led to a high level of public awareness of the UPR mechanism in Ireland.

¹⁴ 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 and the consequences of recent litigation. The review will be undertaken during 2012.