



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-third session

SUMMARY RECORD OF THE 1182nd MEETING (Chamber B)

Held at the Palais Wilson, Geneva,
on Wednesday, 20 September 2006, at 10 a.m.

Chairperson: Ms. KHATTAB

CONTENTS

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Second periodic report of Ireland

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Second periodic report of Ireland (CRC/C/IRL/2; CRC/C/IRL/Q/2 and Add.1)

1. At the invitation of the Chairperson, Ms. Bannon, Ms. Canavan, Mr. Drumm, Ms. Faughnan, Mr. Fleming, Ms. Flood, Ms. Herbert, Mr. Kavanagh, Ms. Kirwan, Mr. Lenihan, Mr. MacAodha, Ms. Nic Aongusa, Mr. O'Connell, Mr. Power, Ms. Sheehan, Mr. Synott and Ms. Walshe (Ireland) took places at the Committee table.
2. Mr. LENIHAN (Ireland) said that Ireland's extraordinary economic growth over the past decade had enabled it to overcome many historical constraints. The Government's aim had been to translate economic success into positive social change by investing in infrastructure, health services, education and income support.
3. The most significant development since the consideration of Ireland's initial report had been the publication in 2000 of the National Children's Strategy, which was rooted in the Convention on the Rights of the Child. In addition, the Ombudsman for Children had been appointed and the National Children's Office had been established. From a position of little understanding of or regard for the voice of children, the National Children's Office had made a strong start. It consulted children regularly in its work, and a recent survey had revealed that the majority of young people in Ireland were aware of their rights under the Convention. Such research would increase understanding of how children's experiences growing up affected their ability to reach their potential and overcome difficulties. The first National Longitudinal Study of Children, which would monitor the lives of 18,000 children over an initial period of seven years, was under way.
4. The overall budget for education had risen from €2.9 billion in 1997 to €7.9 billion in 2006. An additional 5,000 primary teachers and more than 2,000 extra post-primary teachers had been hired. Child protection was a key part of the Government's agenda. Services had been readjusted towards early intervention and support for families in order to reduce the number of children dependent on State care. Since 1997, the annual provision for childcare had been increased by more than €200 million, and €60 million had been invested in capital projects.
5. Responsibility for youth justice and the implementation of the Children Act 2001 had been given to the new Irish Youth Justice Service, which reported directly to the Minister for Children.
6. Much of the progress in improving the quality of life of children across the social spectrum was due to Ireland's strong economic performance and near-full employment. Between 1997 and 2005, some 100,000 children had been lifted out of deprivation as a result of targeted measures and support. Child benefits, the most effective means of combating child poverty, had quadrupled over the past decade and currently stood at €150 a month for a family's

first two children. The children of single parents had been identified as being particularly at risk of poverty. Government proposals for the reform of restrictive social policies affecting such children, and low-income families in general, were currently being discussed with the relevant agencies.

7. An all-party parliamentary committee on the Constitution had recently made recommendations on the need to improve the constitutional rights of children. However, the specific formula advanced by the parliamentary committee was unsatisfactory, and the Office of the Minister for Children had embarked on an article-by-article examination of the Constitution from the point of view of the impact of those articles on children. Any change to the Constitution would involve a referendum. It was therefore important to devise a good formula that would serve the best interests of children and meet with the required public support.

8. The establishment of the Office of the Minister for Children would result in a strategic, integrated approach to legislation, policymaking and service provision for young people. He anticipated that, as in the past, the Committee's concluding observations would help the Government establish its priorities.

9. Ms. SMITH (Country Rapporteur) asked why Ireland had not ratified the Optional Protocol on the sale of children, child prostitution and child pornography, and whether it planned to do so. She asked whether the reason for not ratifying the Optional Protocol was related to the need to amend legislation; if that was the case, she wondered how soon the obstacles to ratification would be overcome. She requested further details of the status of the Convention in the Irish legal system and under the Constitution. She commended the fact that the Convention could be incorporated into Irish human rights law, since that would counteract the Supreme Court's tendency to attach more importance to the family than to individual children. Since the Constitution's silence on the question of children had had a considerable impact on law-making, the Government should conduct a review of that document. Although Ireland had become more multicultural in many ways, she noted that 93 per cent of primary schools were Roman Catholic, and she wondered what choices were available to religious minorities and non-religious families. She asked whether children had the right to choose their own religion and whether they could decide not to attend mandatory religious instruction in school.

10. In view of the fact that poverty rates were higher in Ireland than in almost any other developed country, she asked whether Ireland would achieve its strategic goals as planned by 2007.

11. She was concerned that, in 2006, legislation would be amended to make it possible to charge a 10-year-old with serious offences. In her opinion, there was no reason to change the minimum age of criminal liability which, according to the Children Act, was 14.

12. Mr. PARFITT asked whether a specific budgetary allocation was made to ensure the integration of services for children and whether health and social welfare services and the criminal justice system cooperated in solving the problems of individual children.

13. Although he welcomed the appointment of the Ombudsman, he was concerned about the budget and the independence of that office. He asked whether the Government would consider establishing a parliamentary committee to set an appropriate budget, which would obviate the need for the Ombudsman to apply to the Ministry of Finance. As for the question of independence, he noted that the Minister for Children had the power to veto the investigation of any case dealt with by the Ombudsman. Although the Ombudsman theoretically had jurisdiction over any matter affecting children, she had no powers relating to police, military or immigration matters. The delegation should explain what action the Ombudsman was permitted to take with regard to immigrants. He wondered whether the Ombudsman's powers could be extended to investigate cases involving the death of minors in police custody. The Ombudsman should be provided with a complaints mechanism.

14. Mr. ZERMATTEN requested disaggregated statistics on the situation of urban and rural children, minority and ethnic children other than the Travellers, and children with disabilities, as well as on private and public health and education spending for children and the average time spent by children in pretrial detention. With regard to children's right to privacy, he expressed concern that children's identity was protected in courts that dealt with family and children's issues but not in other courts, and he called on the State party to ensure full implementation of article 16 of the Convention.

15. He asked what measures were being adopted to guarantee the right of children, including disadvantaged children, to be heard, particularly in the public sector. He expressed concern that in family law proceedings involving divorce or separation the appointment of legal counsel to represent the interests of the child was left to the discretion of the judge. He asked whether the State party's review of its Constitution would result in the inclusion of guarantees of the right of children to participate in all aspects of public life, including the administration and the justice system.

16. Ms. ALUOCH asked whether the State party intended to take steps to make the Convention directly applicable in national courts. She welcomed the adoption of the Equal Status Act 2000 and requested additional information on the National Action Plan against Racism and on measures to eliminate institutional racism in preschools, schools and youth clubs. She expressed concern that restricting eligibility for child benefits to habitual residents constituted discrimination against asylum-seekers. The State party's intention to require non-European Union foreign nationals, including children between the ages of 14 and 18, to carry a valid residence permit was discriminatory, since Irish citizens did not have to carry identity papers.

17. Mr. LIWSKI said that the State party's economic growth and the use of the child benefit should lead to a significant reduction in the number of children living in poverty. However, he expressed concern that, although social spending had doubled between 1996 and 2003, social spending as a percentage of the gross domestic product (GDP) had dropped. He asked whether the State party had considered measures to maintain or increase the child benefit while at the same time providing additional income support to vulnerable groups and families.

18. He would welcome additional information on the State party's efforts to disseminate information about the Committee's previous concluding observations, including to children, as well as on measures planned to publicize the current report and the Committee's concluding observations. He also requested information on any steps being taken to guarantee children's rights under article 37 of the Convention and to ensure that any violations of children's rights at the hands of the police or in detention centres did not go unpunished.

19. Mr. POLLAR requested additional information on the role of the Office of the Minister for Children, the situation of the Traveller community, in particular Traveller children, and the status of children born in Ireland to foreign nationals and whose parents were no longer in the country. He also asked whether the Ombudsman for Children had the power to impose fines or sanctions in cases where the rights of a child had been violated, in particular by an agent of the State.

20. Mr. FILALI requested information on the number of cases dealt with by the Ombudsman and on the outcome of those cases. He wished to know whether the Ombudsman was completely independent and whether government departments cooperated readily with her Office. He wondered whether the Ombudsman had any recourse available to her when faced with a veto by a Ministry, and whether her Office prepared reports on such topics as children and the Internet, drugs or alcohol. The State party's poverty reduction efforts should focus on child poverty and on vulnerable groups such as foreigners, ethnic minorities and asylum-seekers.

21. Noting that reasonable corporal punishment was tolerated in the family, he asked who decided what constituted reasonable punishment and whether a child had any recourse if the punishment caused real injury. He enquired whether corporal punishment or ill-treatment at the hands of the police was a problem and, if so, how the Government planned to address that issue. He wondered whether the Government took account of the opinions and recommendations of non-governmental organizations (NGOs) active in Ireland. Although there were legal guarantees to protect child victims and their families in judicial proceedings, more must be done to ensure that those guarantees were implemented in practice.

22. Mr. PARFITT asked how the Office of the Minister for Children incorporated the principle of promoting the best interests of the child in its everyday practice and whether family and criminal legislation reflected that principle.

23. The CHAIRPERSON said that the delegation should explain the current citizenship status of a child born in Ireland to foreign nationals and provide information on the number of racially motivated incidents following the citizenship referendum of June 2004. She requested information on existing mechanisms for reporting and prosecuting race-related crimes. She asked if the State party was considering any measures to increase the rate of breastfeeding, which was the lowest in Europe, and to lower the infant mortality rate for the Traveller minority, which was two and a half times the national average. She would welcome additional information on any measures being considered to protect the rights of fathers in unmarried couples and to grant fathers paid parental leave.

The meeting was suspended at 11.20 a.m. and resumed at 11.40 a.m.

24. Mr. LENIHAN (Ireland) said that draft legislation on trafficking in persons and sexual offences would enable Ireland to ratify the Optional Protocol on the sale of children, child prostitution and child pornography.

25. The constitutional review currently being undertaken would address the concern that the family unit prevailed over the rights of children in certain circumstances. The fact that Ireland was a dualist jurisdiction raised difficulties with regard to the incorporation of the Convention into domestic law, as the Convention would have to be introduced into municipal legislation. However, the Convention would be used as a guide during the review.

26. With regard to article 14 of the Convention and the children of religious minorities, he said that the Constitution recognized the right and duty of parents to provide for the religious education of their children. Since the removal of specific denominational references, the constitutional guarantee to respect and honour religion extended to all of the monotheistic faiths, and the Government would support the establishment of denominational schools under the patronage of any of those religions. The majority of new schools established in recent years were multidenominational, although denominational schools were still the preferred choice of most parents. Parents had a constitutional right to withdraw their children from religious instruction, which was respected by the Department of Education and the school authorities.

27. Ms. KHATTAB asked whether denominational schools were private or whether they were part of the formal education system under the supervision of the Department of Education.

28. Mr. LENIHAN (Ireland) said that primary schools were not private religious schools but were funded by the Exchequer and involved a partnership between the State and the relevant local parish or sponsoring body, which included the coordinating body for multidenominational schools and the body for the promotion of the Irish language.

29. Regarding the definition of the child, the provision contained in the Children Act, which set the age of criminal responsibility at 12, would enter into force in October 2006. However, it would remain possible to charge 10- and 11-year-olds in cases of murder, manslaughter or aggravated sexual assault. The Director of Public Prosecutions had a veto on all prosecutions of children under the age of 14.

30. Ms. SMITH expressed concern that, the more serious the offence, the lower the age of criminal liability was, and that the original proposal had not been adopted.

31. Mr. LENIHAN (Ireland) said that, since there had been very occasional instances of aggravated sexual assault committed by 10- or 11-year-olds, it had been deemed appropriate to retain the option to prosecute such minors in view of the outrage of the victims of the offences. A new section, which had been formulated on the basis of the Convention, had been introduced into the legislation and allowed the judge to dismiss the case on the grounds of the age and maturity of the child.

32. Ms. FAUGHNAN (Ireland) said that the Government used the consistent poverty criterion in its child poverty statistics. The at-risk-of-poverty definition was not a reliable indicator because of the rapidly expanding economy. The original 2007 target of 2 per cent had been set using a pre-2004 survey, and it was assumed that it would have been met if the methodology had not changed. Under the new European Union statistics on income and living conditions (SILC) criteria, which had been introduced in 2004, consistent poverty had fallen from 12.2 per cent in 2003 to 9.5 per cent in 2004. The preliminary 2006 census figures and the results of the 2005 SILC survey would provide an accurate estimate of the number of children in consistent poverty. Irrespective of the actual figures, the Government accepted that the problem existed, and considered it a priority. Additional resources were being allocated to target child poverty, and social welfare spending had reached €14 billion in 2006.
33. Mr. LENIHAN (Ireland) said that substantial community investments were made in certain urban and rural areas that had been designated as disadvantaged.
34. Ms. SMITH asked whether it was true that the poverty rate in Ireland was higher than in most other developed countries.
35. Mr. LENIHAN (Ireland) said that the Minister for Children had full delegated powers within three government departments - health and children, education and science, and justice. The Minister and his senior officials could participate in the management meetings of all three departments, which would facilitate a coordinated approach in such areas as child protection, children at risk and school attendance. The Minister for Finance had ultimate power in the allocation of resources.
36. Ms. KHATTAB asked whether the Minister for Children had executive decision-making power in the event of conflict with another minister.
37. Mr. LENIHAN (Ireland) said that executive power rested with the Government collectively, and all draft legislation must come before the Cabinet.
38. The drafting of the National Children's Strategy had brought together most senior public servants and raised levels of awareness of children's issues in the public service. A far-reaching reform of social services had recently been completed, and local health and social services boards had been abolished and replaced with a single national agency.
39. The veto power contained in the Ombudsman for Children Act, whereby a government minister could request that the Ombudsman should not investigate a case, had never been exercised, and it seemed unlikely that it ever would be.
40. Mr. PARFITT said that such powers were usually limited in statute, and not purely discretionary. If the Government did not wish to eliminate the veto power completely, it should at least limit it.
41. Mr. LENIHAN (Ireland) said that the drafters of the legislation had attempted to cover any emergency that might arise. The independence of the Ombudsman was guaranteed by law,

and the Minister for Children was not accountable for her. The military were excluded from the Ombudsman's jurisdiction as they had their own ombudsman, and an Ombudsman Commission had recently been established for the Garda Síochána.

42. With regard to children detained in adult prisons, he said that there was only one institution that held offenders between the ages of 16 and 21. However, it had been decided that the child detention school model, which covered children under the age of 16, should be universalized for all offenders up to the age of 18, and the Children Act had been amended accordingly. All detainees up to the age of 18 would then be subject to the jurisdiction of the Ombudsman for Children. As an interim measure, 16- and 17-year-olds had already been segregated from the over-18s. Land had been acquired for the new institutions and the project was expected to be completed by 2010.

43. With regard to the average length of detention of juveniles before trial, he pointed out that the vast majority of juvenile offenders were released on bail. The establishment of the youth justice service would lead to a major improvement in the collation of statistics in that area.

44. The high legal cost of divorce proceedings had been a factor inhibiting the participation of additional parties, including children.

45. Ms. CANAVAN (Ireland) said that the Government had recently adopted national data and statistics strategies. The Office of the Minister of Children had a dedicated research team, and efforts were being made to develop both the capacity of the Office and that of the research community in general. Child well-being indicators were being developed to prepare a report on the state of the nation's children, and the National Longitudinal Study of Children in Ireland had been commissioned.

46. Mr. LENIHAN (Ireland) said that certain social expenditures had fallen as a percentage of GDP because Irish GDP was overstated in that it included repatriated profits of international companies, and some social expenditures decreased as the State reached full employment.

47. Ms. FAUGHNAN (Ireland) said that the Government had identified that those most at risk of poverty were large families and families headed by single parents. The Government was focusing on single parents, as they experienced high levels of unemployment, and those who were employed usually worked in low-paid, part-time jobs. The Exchequer was spending over €1.35 billion in direct support to single parents. An integrated programme had been developed to support single parents through access to education and training. Targeted support to low-income families and a second-tier child income support were also being considered.

48. Mr. LENIHAN (Ireland) said that the difficulty with introducing additional targeted support at the lower end of the spectrum was that they could be work disincentives.

49. With regard to the dissemination of the Committee's concluding observations, he said that the public debate concerning Ireland's first report had brought the importance of the Convention to the attention of the public administration. More intensive public discussion would

be necessary in relation to the current report. Substantial publicity had been given to the delegation's appearance before the Committee in the mass media. The concluding observations would be referred to the relevant parliamentary committees, and all levels of civil society would be made aware of them.

50. Ms. KHATTAB said that the Government should maintain the momentum achieved at the World Congress of the International Association of Youth and Family Judges and Magistrates recently held in Belfast.

51. Mr. FILALI asked whether all single mothers, including asylum-seekers, received benefits.

52. Mr. LENIHAN (Ireland) said that the social welfare code did not apply to asylum-seekers, who were directly assisted by the State.

53. Physical punishment was already expressly forbidden in detention schools, and the relevant legislation would enter into force on 1 January 2007. In a family context, it was for the court to determine what constituted "reasonable chastisement", and parents found to have exceeded it could be charged with criminal assault. The Children Act prohibited corporal punishment and cruel, degrading or inhuman treatment or other punishment that was harmful to children.

54. He did not know the exact number of cases dealt with by the Ombudsman.

55. Under existing legislation, children involved in court proceedings were cross-examined through a video link. Legislation had also been enacted to allow children to give evidence on a video recording, and measures were being taken to develop an appropriate protocol for the generation of such evidence.

56. Strategies to alleviate poverty among children included community-based policies and income-transfer policies. Community centres, youth clubs, playgrounds, sports facilities and anti-drug measures were being developed in several urban and rural areas that had been designated as disadvantaged.

57. Data collection on children in detention would improve with the establishment of the Youth Justice Service. The beating of a person in detention was regarded as a serious matter; under article 40 of the Constitution the victim had immediate access to a High Court judge and the right to significant compensation.

58. Ireland had amended its Constitution to provide that foreigners had to reside in the country for five years before any children that they bore could automatically obtain Irish citizenship.

59. Any person whose rights were violated had a remedy before the courts. The Ombudsman's role was to promote good practice and ensure that cases did not need to go to court.

60. The National Action Plan against Racism had been adopted in 2005. There were no restrictions on movement between the United Kingdom and Ireland, and there was substantial freedom of movement in the European Union. While most immigrants contributed to Ireland, a minority assumed false identities or sought to conceal themselves from the State for criminal purposes or to abuse the social or other systems. Identification documents for immigrants were therefore necessary for their protection.

61. A special unit of the Garda Síochána (police) had been established to work on cases of racist attacks and ensure that they were reported and that the perpetrators were prosecuted. Legislation criminalizing racist attacks was in force in general law and there were specific laws banning racist conduct and language.

62. Ms. SMITH requested an explanation of the positive results of the education system. She asked whether school councils were compulsory and, if not, how many schools had introduced them. Additional details on the policy to prevent bullying in schools would be useful. She wished to know why children with disabilities did not participate in higher levels of education. The delegation should indicate whether there were sufficient playgrounds in schools and local communities. Further information should be provided on sex education in schools, and on children's right to consult doctors on sex education without their parents' consent. She enquired whether child asylum-seekers enjoyed the same rights to health and education as Irish children. She asked what measures the State party took to provide mental health services for young people, and whether young people were admitted to adult psychiatric wards. She wished to know how the reporting State dealt with the stigma attached to mental health for children and their families.

63. Ms. ALUOCH asked whether all health services were available to young people in and out of schools. She wished to know how the criminal justice system treated a child prostitute between the ages of 12 and 16.

64. Mr. PARFITT asked what financial support was available to people who cared for children from their extended family. He would be interested in learning whether the State party had a policy of reuniting children in alternative care with their families. He enquired whether the individual plans for children in care were reviewed on a regular basis, and whether young children participated in developing their own care plans. He requested information on training available to staff working in foster homes, group homes and other alternative care institutions. The delegation should indicate whether a complaint mechanism other than the Ombudsman for Children was available to children in alternative care. He wished to know whether the Social Services Inspectorate monitored all alternative care services.

65. He requested additional information on the policy for investigating the deaths of children, and on provisions to monitor any of the State's direct or indirect responsibility for such deaths. He asked whether parental consent was required for all medical procedures. The reporting State should indicate what measures it was taking to protect children from abuse and to collect adequate data on child abuse.

66. It was unclear whether the Guardian ad Litem programme provided a substitute for a lawyer, whether those providing that service were trained, and how they ensured children's exercise of their right to be heard. The relationship between legal representation and the Guardian ad Litem should be clarified. He requested additional information on the reported lack of privacy in juvenile courts, the irregular enforcement of the in camera rule, and the fact that children had not been encouraged to exercise their right to participate in court proceedings. Further details on the diversion programmes to keep children out of courts and the criminal justice system would be welcome.

67. Ms. VUCKOVIC-SAHOVIC asked whether child labour remained a concern in the State party. She requested additional information on all forms of exploitation of children, particularly their participation in illicit drug trafficking, begging and other criminal activities. She wished to know how many cases of sexual exploitation of children had been brought before the courts, how the victims had been assisted, and what measures were taken to prevent such activities. She urged the Government to ratify the Optional Protocol on the sale of children, child prostitution and child pornography. Further details should be provided on trafficking in children, particularly on prevention of trafficking and the treatment of victims. She wished to know whether the State party monitored the social exploitation of children, for example in sports. She asked when the reporting State would criminalize female genital mutilation.

68. Mr. ZERMATTEN asked whether, under the new juvenile justice system, a child aged 10 who committed a serious crime would be deprived of his or her liberty. He wished to know whether children aged 10 or above who appeared before the High Court after committing a serious crime had the right to a trial appropriate for a minor. It was unclear whether the legislation that provided that children aged 10 or above could be held criminally responsible for committing a serious act implied that children were criminally responsible for all acts from that age. He would be interested in hearing the delegation's comments on the fact that the new juvenile justice system appeared to introduce greater leeway for judges to make subjective decisions when sentencing minors. He asked whether deprivation of liberty would continue to be used or whether there would be greater recourse to diversionary approaches to juvenile justice. Given the high number of minors currently in adult detention centres, he wished to know what steps would be taken to increase the number of separate facilities. He enquired what guarantees were available for young people held in police custody, and whether independent inspections were conducted in the custody centres.

69. He asked why the State party had not ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

70. Mr. FILALI asked what measures were being taken to prevent children from taking drugs and smoking, and how the State party dealt with children who took drugs and smoked.

71. Further details should be provided on the direct assistance available to asylum-seekers and single mothers; in particular he wondered whether such assistance guaranteed a decent

standard of living. It would be useful to have additional information on the trafficking of children into Ireland for adoption or other purposes, and on the number of children that had been trafficked.

72. He asked whether the Garda Síochána played the role of mediator between victims and juvenile delinquents, and whether it was the Garda Síochána or a judge that decided not to involve the courts. He wished to know who managed the special schools for young offenders. It was unclear whether there were special courts other than the High Court. If so, the delegation should indicate whether those courts could administer juvenile justice. He enquired whether there were still paedophile priests in the State party and, if so, what measures had been taken to remedy that problem and how the perpetrators had been punished.

The meeting rose at 1 p.m.