



**International Covenant on
Civil and Political Rights**

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Human Rights Committee

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**Consideration of reports submitted by States parties
under article 40 of the Covenant**

**Replies of Ireland to the list of issues in relation to its fifth
periodic report***

[Date received: 31 March 2022]

* The present document is being issued without formal editing.



Constitutional and legal framework within which the Covenant is implemented (art. 2)

Reply to paragraph 1

1. Ireland has a dualist legal system and consequently the terms of international agreements to which Ireland becomes a party do not become part of the domestic law of the State unless expressly incorporated by or under an Act of the Oireachtas. By virtue of Article 29.6 of the Constitution, the text of an international agreement can only be expressly incorporated into the domestic law of the State as determined by the Legislature. Where a measure to implement an international agreement would require a change to the Constitution this requires a referendum. 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. Often it will not be possible for the State to meet the obligations it assumes under the terms of an international agreement without first taking steps required by domestic law, or otherwise, enabling it to do so.

2. Many of the rights contained within the Covenant are part of the domestic law of Ireland by virtue of provisions in the Constitution of Ireland, including areas of human rights law which have been developed by the Irish Courts through the doctrine of unenumerated personal rights under Article 40.3 of the Constitution. In other cases, legislative provisions give effect to rights specified in the Covenant, while the common law also provides further protections. Ireland, in conformity with its obligations to the Covenant, has chosen to implement its obligations under the Covenant using these mechanisms rather than by direct incorporation.

3. The Committee should note that Ireland had made a reservation in relation to Article 10.2 of the Covenant, not Article 10.1. Ireland accepts the principles referred to in Article 10.2 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.

4. Article 10.2 (b): Oberstown Children Detention Campus is the sole detention facility for the remand or committal of children up to the age of 18 years. Children and adults, whether on remand or detained, are accommodated in separate facilities. In this regard, the withdrawal of Article 10.2 (b) is under consideration.

5. Article 20.1: Ireland's position is unchanged.

6. The Government has a policy of keeping existing reservations to human rights treaties actively under review, consistent with the Vienna Declaration and Program of Action and has removed a number of reservations no longer considered necessary.

7. The establishment of a Judicial Council on 17 December 2019 formalised a number of important judicial functions. These include:

- Provision for the continuing education of judges.
- Guidelines for awards in personal injuries cases Sentencing Guidelines.
- A judicial code of conduct and the introduction of mechanisms for addressing complaints.

8. Under Budget 2020, €1.25 million was provided for the Council's establishment, bringing the total allocation to €1.5 million for the period 2019-2020. Budget 2021 provided an increase in funding to €1.75 million.

9. Regarding the funding of bodies that form the institutional framework within which the Covenant is implemented, see paragraph 10.

Reply to paragraph 2

10. IHREC is Ireland's National Human Rights Institution and the National Equality Body. There have been no revisions to the 2014 Irish Human Rights and Equality Commission Act within the reporting period.

11. Since 2015, IHREC has been funded through the Oireachtas¹ as outlined by the 2014 Act. From 2015 to 2019, total funding of €32.725m was made available. Provisional expenditure by IHREC was €26.228m. The allocation was increased in 2020 to €6.751m annually.

Anti-corruption measures (arts. 2 and 25)

Reply to paragraph 3(a)

12. The Criminal Justice (Corruption Offences) Act 2018 replaced the Prevention of Corruption Acts 1889 to 2010. It introduced measures to better implement Ireland's obligations under the OECD, UN and Council of Europe (CoE) Conventions and the recommendations of the Mahon Tribunal. The Act includes the establishment of new offences for:

- Active and passive trading in influence.
- An official doing a corrupt act in relation to their office giving a gift, consideration or advantage knowing that it will be used to commit a corruption offence.
- Creating or using false documents.
- Intimidation where a threat of harm is used instead of a bribe.
- The presumption of corrupt gifts extended to connected persons.
- Provisions for forfeiture of public office and prohibition from seeking public office for up to ten years.
- New strict liability offence for bodies corporate where any individual connected with the company has been found guilty of corruption; and
- Provisions for seizure and forfeiture of bribes.

Reply to paragraph 3(b)

13. The Public Sector Standards Bill 2015 proposed the consolidation of some of the legislation relating to Ethics in Public Office. This lapsed with the dissolution of the Dáil in January 2020. Preparation of the review of Ethics in Public Office is underway and the target for completing the review is Q4 2021.

Reply to paragraph 3(c)

14. An Anti-Corruption Unit was established by An Garda Síochána (AGS) Ireland's national police and security service, in November 2020. It conducts investigations into suspected corruption and monitors compliance with counter-corruption policies and procedures. A report on Countering Internal Corruption was published in March 2021. In June 2021, AGS published its new Anti-Corruption Policy, the Professional Boundaries and Abuse of Power for Sexual Gain Policy, as well as the Substance Misuse (Controlled Drugs) Policy.

15. The Review of Structures and Strategies to Prevent, Investigate and Penalise Economic Crime and Corruption, undertaken by the Department of Justice (DOJ), was published on 3 December 2020. The review was led by James Hamilton, the former Director of Public Prosecutions (DPP), who chaired a review group comprising representation from Government Departments and agencies with responsibility for economic crime and corruption as well as external experts.

16. The Hamilton Report focuses on measures to enhance enforcement and prevention capacity in the criminal justice sphere. Following the Review's publication, DOJ will implement an Action Plan to tackle economic crime and corruption.

¹ Ireland's national parliament, comprising of two houses; Dáil Éireann (Lower house) and Seanad Éireann (upper house).

Accountability for past human rights violations (arts. 2, 6, 7 and 14)

Reply to paragraph 4(a)

17. Following the publication of the Report of the Commission to Inquire into Child Abuse (the Ryan Report), an Implementation Plan was adopted in July 2009 containing ninety-nine actions. Ninety-five actions are now complete or ongoing with four outstanding.

18. The Ferns Report was published in 2005. The Government accepted its recommendations. The Report of the Commission of Investigation into the Catholic Archdiocese of Dublin was published in 2009. The report by the Commission of Investigation into the handling by Church and State authorities of allegations of child sexual abuse in the Catholic Diocese of Cloyne was published in 2011.

19. The Magdalen Ex-Gratia Scheme was established by the Government following the publication of the report of an Inter-Departmental Committee set up to establish the facts of State involvement in Magdalen Laundries. To date €32.25m has been paid to 807 applicants in addition to medical benefits and pension payments.

20. The Commission of Investigation into Mother and Baby Homes and certain related matters was established to account for what happened to vulnerable women and children in these Homes during the period 1922 to 1998. It submitted its final report on 30 October 2020.²

21. The Government is giving careful consideration to the report, with a view to developing an Action Plan spanning eight themes:

- A survivor-centred approach
- Apology
- Access to personal information
- Archiving and databases
- Education and research
- Memorialisation
- Restorative recognition
- Dignified burial

22. When publishing the Final Report of the Commission of Investigation, the Government paid tribute to the former residents of these institutions; acknowledged their courage and thanked them for their testimony.

Reply to paragraph 4(b)

23. When establishing the independent Commission of Investigation (Mother and Baby Homes), the Government established an inquiry with the scope and legal power to examine the broad range of related public concerns, and to make any findings and recommendations which the Commission deemed appropriate.

24. The Commission had significant powers and autonomy and was tasked with examining records and testimony, which the State, or other parties, may not have had access to previously. In recognising that new information could be uncovered in the course of the investigation, the Commission was required to report on any matters or institutions outside its scope which it considered may warrant further investigation in the public interest. In its second interim report, the Commission offered an assessment of the requests it had received for additional institutions to be investigated but did not identify any additional matters warranting investigation. Notably, the Commission reported that the institutions it investigated were: “Unquestionably the main such homes that existed during the 20th century.”

² <https://www.gov.ie/en/publication/d4b3d-final-report-of-the-commission-of-investigation-into-mother-and-baby-homes/>

25. The comprehensive scope of the investigation is evident in a final report which consists of 39 chapters, each dealing with a specific institution or theme. The report brings a considerable amount of previously unknown information into the public domain. The State has taken account of the Commission's findings and its recommendations but has not been limited by these in developing a comprehensive Action Plan containing 22 actions. These measures are intended to address the priority concerns of those who spent time in these institutions and will be implemented in a survivor-centred way.

(a) The Committee's report on Magdalen Laundries published in February 2013 provides a comprehensive analysis of State involvement and the living and working conditions in these institutions. Redress has been provided through the Magdalen Laundry Restorative Justice Scheme, which addresses the needs of the women, is non-adversarial and is based on length of stay in an institution;

(b) The Government is committed to the establishment of memorials and has made a financial commitment of €500,000. The Government supported the 'Dublin Honours Magdalenes' event in June 2018. Over 200 former residents of Magdalen Laundries attended the event, which was held in the official residence of the Lord Mayor of Dublin;

(c) There is no statute of limitations with regards to criminal investigations. Individuals can make a complaint to AGS where they believe that the treatment to which they were subject in a Laundry was a criminal offence.

Reply to paragraph 4(c)

26. The Commission of Investigation into Mother and Baby Homes was designed to facilitate effective fact-finding, not to impose penalties or adjudicate on individual behaviours.

27. AGS considered the Commission's Final Report and determined that there is insufficient information to commence criminal investigations. AGS issued a statement on 29 April 2021 appealing for information from anyone who wishes to report a crime relating to a pregnancy and/or abuse at a Mother and Baby Home. AGS will deal with reports in a sensitive manner and will, where possible, conduct investigations. AGS advised that there may be limitations as to the action that can be taken in some cases due to the loss of evidence over time or suspects and/or witnesses being deceased.

28. Upon the dissolution of the Commission of Investigation on 28 February 2021, the State became the controller for all the personal data contained in the Commission's archive.

29. This State is responsible for protecting the rights of the individuals who are identified in these records. Everyone has the right to access their own personal data through a request to the Data Controller. The spouse or next of kin of a deceased person may potentially have a right to access data. Each request is considered on a case by case basis.

Reply to paragraph 5

30. The State has implemented a range of measures for women affected by Symphysiotomy. All available facts are contained in three independent reports (Walsh, Murphy and Harding Clark, 2013 - 2016)

31. The Symphysiotomy Payment Scheme (SPS) was accessed through applications to the Scheme. Ex-gratia payments totalling €29.8m were disbursed to 399 women who underwent the procedure.

32. The Health Service provides free ongoing medical services to all women who had a Symphysiotomy. The December 2020 judgment of the European Court of Human Rights found that, "In the Court's view these factors had sufficed to meet any obligation the State might have been under to provide redress."

33. The Murphy report found that a court was not likely to hold that it was necessary to have obtained an informed consent in unexpected lifesaving emergency situations of obstructed delivery during labour.

34. Judge Clark's Report and the outcome of a 2015 High Court case found that the procedure at that time "*was not without justification*". This decision was upheld by the Court of Appeal. The legal position is that, at the time, Symphysiotomy in certain cases was a reasonable option, and so it would be necessary to establish in any particular case that the procedure was not justified. The Courts have yet to make any such finding, and so it cannot be accepted that obstetricians who conducted the procedure at the time should now be punished.

Derogations (arts. 4, 9, 12, 21 and 22)

Reply to paragraph 6

35. The Health Act 2020 was enacted on 20 March 2020. It amended the Health Act 1947 authorising the Minister to make regulations for preventing the spread of COVID-19, through the introduction of various measures, including by restricting travel within Ireland; requiring persons to remain at home, with specified exceptions; prohibiting events that could reasonably be considered to pose a risk of infection; and, other measures considered necessary. The Act was extended to 09 November 2021 by the enactment of the Health and Criminal Justice (Covid-19) (Amendment) Act 2021 on 06 June 2021.

36. No derogation has been made under Article 4 of the Covenant in relation to the measures taken by the State party to address the COVID-19 pandemic.

37. There are penal provisions in the regulations enforced by AGS using the 4 E's of engagement, encouragement, education and, as a last resort, enforcement.

38. The Act provides that guidance and advice can be supported by enforcement with proportionate penalties.

39. Section 5(5) of the 1947 Act provides that regulations made under the Act must be laid before the Oireachtas. The Oireachtas has 21 days to annul these Regulations.

40. The Government launched the 'Still Here' campaign in collaboration with civil society organisations (CSOs). It informs domestic abuse victims that supports are still available regardless of the level of COVID-19 restrictions and that travel restrictions do not apply to persons at risk.

Non-discrimination (arts. 2, 3, 13, 20, 23, 26 and 27)

Reply to paragraph 7(a)

41. The Equal Status Acts 2000-2018 prohibit discrimination on the grounds of gender, marital status, family status, age, disability, sexual orientation, race, religion and membership of the Traveller community.

42. In 2019, IHREC dealt with 2,165 queries about human rights and equality law and made 622 referrals to other information resources or services. During 2019, 21 cases were concluded, involving 41 individuals granted legal advice and representation. Nine cases involving 14 individual were concluded in 2018. 1,890 queries were handled in 2017 and 750 referrals made to other organisations.

43. The Government established an expert group to review the Housing (Traveller Accommodation) Act 1998 and other legislation concerning the provision of Traveller-specific accommodation. In 2019, the Traveller Accommodation Expert Group report made a recommendation in regard to the existing legislation which is in place governing Trespass and Evictions which is under consideration by the Government.

44. In relation to the Committee's previous observations regarding the removal of Roma children, this refers to two children from the Roma community who were removed from their family's care by AGS in 2013; Child A and Child T.

45. AGS used emergency powers under Section 12 of the Child Care Act 1991. Once invoked, the child removed must be placed in the custody of the child protection services.

46. It was established that the belief that Child A was abducted or otherwise with their family under false pretences was incorrect. With respect to Child T, an emergency care order was granted for 24 hours to facilitate a DNA test to confirm the child's relationship with their parents. Both children were returned to the care of their parents.

47. Emily Logan, the then Ombudsman for Children, carried out a review of the actions of AGS and other agencies when exercising powers under Section 12.

48. Ms Logan's report contained a number of recommendations, including:

- An audit of the use of Section 12 of the Child Care Act 1991;
- Access to National Child Care Information System to be given to AGS; and
- Addressing deficits in cultural competency among State bodies through training.

Reply to paragraph 7(b)

49. In 2017, the Government formally recognised the Irish Traveller community as a distinct ethnic group. The National Traveller and Roma Inclusion Strategy 2017–2021 contains 149 actions, in areas including Employment, Education and Health. Progress is monitored by a Steering Committee that includes Traveller and Roma representatives and CSOs.

50. In 2020, €3.8 million in funding was provided for Traveller and Roma inclusion. An additional €1 million has been granted for 2021 to continue existing supports and to counteract the impact of COVID-19.

51. Ireland's National LGBTI+ Inclusion Strategy 2019-2021 was launched on 28 November 2019. It pursues objectives that ensures LGBTI+ people are treated equally and feel supported.

52. The LGBTI+ National Youth Strategy has been extended to 2022 due to COVID-19 to allow full implementation. Reporting on the Strategy's implementation will begin in Q3 2021.

53. Since 2017, the Migrant Integration Strategy (MIS) 2017-2020 (extended to end of 2021 due to COVID-19) contains actions aimed at addressing racism and xenophobia and promoting diversity and inclusion.

54. A Progress Report shows that, as of June 2019, 54 of the 76 actions fall into the 'on track' or 'completed' reporting categories.

55. The Anti-Racism Committee was established in 2019 to review evidence and make recommendations on how best to strengthen the Government's approach to tackling racism. Its work will culminate in a draft national action plan.

Reply to paragraph 7(c)

56. The National Public Health Emergency Team (NPHE) for COVID-19 was established in January 2020. NPHE established a Vulnerable Persons Subgroup to provide guidance on the measures needing to be taken to protect vulnerable groups and individuals. The Subgroup included representatives of organisations for persons with disabilities and mental health service users.

Reply to paragraph 8

57. The General Scheme of the Criminal Justice (Hate Crime) Bill 2021³ was published in April 2021. This will replace the 1989 Prohibition of Incitement to Hatred Act. It will create new, aggravated forms of certain existing criminal offences, where those offences are motivated by prejudice against a protected characteristic. These characteristics have been

³ [http://www.justice.ie/en/JELR/General_Scheme_Criminal_Justice_\(Hate_Crime\)_Bill_2021.pdf/Files/General_Scheme_Criminal_Justice_\(Hate_Crime\)_Bill_2021.pdf](http://www.justice.ie/en/JELR/General_Scheme_Criminal_Justice_(Hate_Crime)_Bill_2021.pdf/Files/General_Scheme_Criminal_Justice_(Hate_Crime)_Bill_2021.pdf)

updated to include gender, including gender expression or identity and disability, and to ensure Traveller ethnicity is recognised on the same basis as other ethnicities.

58. The aggravated offences will carry an enhanced penalty, and the conviction record would state that the offence was motivated by prejudice. The Legislating for Hate Speech and Hate Crime in Ireland, Public Consultation Report was published on 17 December 2020. The constitutional rights of freedom of expression and association will be respected in the new legislation.

59. AGS reported that hate-based motivations for crime incidents recorded for 2013-2018 were 113, 115, 163, 290, 324 and 340 respectively. There were 251 incidents recorded in 2019 and 178 in 2020 (up to 18 September, 2020). The 2020 figure is likely to have been impacted by a reduction in most crime types due to COVID-19.

60. The Garda Diversity and Integration Strategy 2019-2021 has a significant focus on enhancing the identification, reporting, investigation and prosecution of hate crimes.

61. Updates to the Garda PULSE Computer system in October 2020 formalised the recording of hate-related motivations for incidents.

Gender equality (arts. 2, 3 and 26)

Reply to paragraph 9(a)

62. The Government signalled its intention to hold a referendum to delete Article 41.2 from the Constitution. The Joint Oireachtas Committee on Justice and Equality agreed in its December 2018 report that the current wording of Article 41.2 is inappropriate.

63. In June 2019, the Government decided to establish an independent Citizens' Assembly to bring forward proposals to advance gender equality. The Oireachtas resolution establishing this Citizens' Assembly, including the topics for its consideration, was passed by both houses in July 2019. The Assembly completed its work and submitted its report of recommendations to the Oireachtas on 2 June 2021. The 2020 Programme for Government (PFG) commits to responding to these recommendations.

64. The Assembly submitted its report of recommendations to the Oireachtas on 2 June 2021. The 2020 Programme for Government (PFG) commits to responding to these recommendations.

Reply to paragraph 9(b)

65. The National Strategy for Women and Girls 2017-2020 has been extended to 2021 due to the impact of COVID-19. It pursues 85 outcomes under six high-level objectives, advanced through 139 actions. To date 41 actions have been completed.

66. A progress report from May 2017 to July 2018 has been published⁴ and includes indicators relating to outcomes concerning poverty, education, labour market participation, health, violence against women, and leadership. A progress report from August 2018 to end 2020 will be published this year. An independent evaluation will be conducted on the Strategy's conclusion to inform the development of future policy.

Reply to paragraph 9(c)

67. Provisions to encourage the selection of more women candidates in general elections were introduced in the Electoral (Amendment) (Political Funding) Act 2012. It provided that political parties will face a reduction of half of their State funding if they do not have at least 30% women candidates at the next general election,⁵ increasing to 40% after seven years.

68. The 30% quota was met by all of the qualified political parties that contested the 2016 election and contributed to a 90% increase in women's candidacy and an increase in women in the Dáil, from 15% in 2011, to 22%. This level was maintained in the 2020 general election,

⁴ <http://www.genderequality.ie/en/GE/Pages/NationalWomensStrategy>

⁵ The election in question took place in February 2016.

with 31% of candidates and 22.5% of those elected being women. The current membership of Seanad Éireann, is 40% female and 60% male.

69. The Government launched the Better Balance for Better Business Independent Review Group in 2018. Led by businesses, it aims to improve gender balance in senior leadership. The initial target is to have 33% female representation on boards of Irish Stock Exchange Quotient 20 companies, with further targets of 25% female representation on boards for other listed companies, by the end of 2023. The Group set targets for women on the boards and leadership teams of large Irish-owned and multinational companies. The Review Group's most recent report was published in November 2020.

70. The Gender Pay Gap Information Act 2019 to reduce the gender pay gap was enacted in July 2021.

71. Significant progress has been made in relation to female representation in senior Civil Service positions.

Percentage Female Representation in Senior Management Grades

<i>Grade</i>	<i>1997</i>	<i>2007</i>	<i>2020</i>
Secretary General	5%	19%	28%
Assistant Secretary General	10%	19%	37%
Principal Officer	12%	26%	46%
Assistant Principal	24%	33%	52%

Violence against women, including domestic violence (arts. 2, 3, 6, 7, 24 and 26)

Reply to paragraph 10(a)

72. The Domestic Violence Act 2018 introduced new offences of forced marriage and coercive control.

73. The Second National Strategy on DSGBV has actions which specifically address DSGBV in Traveller, Roma and migrant communities.⁶

74. Pavee Point (an NGO focusing on the rights of Travellers and Roma) and AkiDwa (a network of migrant women promoting integration and equality), are members of the Strategy's monitoring committee. The lessons from this strategy will inform the Third Strategy commencing in 2022.

Reply to paragraph 10(b)

75. An awareness campaign was launched in November 2016 which focused on domestic and sexual violence and harassment. The 'bystander' approach of the campaign has been effective with independent research showing the campaign to have an above industry average score including for understanding of the message. The Government is developing an awareness campaign on consent in the context of sexual activity and relationships which is to be launched before the end of 2021.

Reply to paragraph 10(c)

76. Under the Second National Strategy, a system of data collection and analysis has been established. Data is disaggregated by:

- Age, sex and ethnicity of the victim and perpetrator;
- Their relationship;

⁶ See Actions 2.1000 and 2.1100 on p. 11 of Strategy <http://www.justice.ie/en/JELR/Pages/Second-National-Strategy-on-Domestic-Sexual-and-Gender-based-Violence-2016-2021>

- Any disabilities of victim or perpetrator.

77. The Health Service Executive (HSE) and Sexual Assault Treatment Units (SATUs) promote data collection to assist with service planning and delivery.

78. AGS are developing capacity to analyse data from the PULSE system and are evaluating international best practice to inform development of policies in the domestic violence intervention and the investigation of sexual crime.

Table 1:

Figures for victims of sexual offences for the years 2014–2019

2014	2 053*
2015	2 361*
2016	2 226 (Female 1 784, Male 442)
2017	2 528 (Female 2 049, Male 479)
2018	2 771 (Female 2 266, Male 505)
2019	2 788 (Female 2 260, Male 528)

*Breakdown by gender unavailable

Table 2:

There is no distinct offence for domestic violence. This table contains figures for applications to the District Court under domestic violence legislation

2014	13 528
2015	14 374
2016	15 227
2017	15 962
2018	18 572
2019	20 501

Under domestic violence legislation, the following are available;

- A Safety Order.
- A Protection Order.
- A Barring Order (including Interim and Emergency orders).

79. The sexual violence prevalence study is ongoing. A survey is being developed to include data from migrant populations, Traveller communities and persons with intellectual disabilities.

80. An ongoing multi-agency action plan to respond to domestic abuse during the pandemic covers three main areas;

- Raising awareness of services and supports available.
- Maintaining and prioritising services.
- Ensuring access to the courts for protection orders.

81. Section 8(3) of the Child and Family Agency Act, 2013, provides Túsla with responsibility for the care and protection of DSGBV victims. Funding has increased from €20.6m (2016) to €30m (2021).

82. Since 2016, there has been an increase in outreach services in rural or isolated areas. Therapeutic programmes for child witnesses or victims of DSGBV are being rolled out.

83. Additional refuge spaces have been made available and core funding for all rape crisis centres was increased by 10% in 2019.

84. Túsla is funding pilot projects for the Traveller community, and one for Roma women, experiencing or at risk of DSGBV.

85. During the pandemic, Túsla prioritised DSGBV and allocated an additional €1.9m for COVID-19 specific funding to DSGBV organisations in 2020.

86. At the start of the COVID-19 pandemic in March 2020, there were 149 family units of emergency domestic violence accommodation operational in Ireland. 139 of these units were in dedicated domestic violence refuges and 10 were in Safe Homes, or individual housing units. A breakdown of these units in terms of region :

<i>Region</i>	<i>Number of Units normally operational</i>
Munster	52
Connacht-Ulster	21
Leinster	76
Total	149

87. Due to COVID-19 guidelines, the number of operational refuge units has reduced, particularly in refuges with shared facilities. Accommodation in refuges has been supplemented with access to a range of alternative safe accommodation units. As of April 2021, there were 141 units of emergency domestic violence accommodation available.

Termination of pregnancy, maternal mortality and reproductive rights (arts. 2, 3, 6, 7 and 24)

Reply to paragraph 11(a)

88. The Health (Regulation of Termination of Pregnancy) Act 2018 commenced on 1 January 2019. It permits termination where there is a risk to the life, or serious harm to the pregnant woman; where there is a condition present which is likely to lead to the death of the foetus either before or within 28 days of birth; and without restriction up to 12 weeks of pregnancy. Services are delivered in both community and hospital settings throughout Ireland.

89. Section 12 of the Act permits termination by a medical practitioner who certifies that a pregnancy has not exceeded 12 weeks. Three days must elapse between certification and the procedure being carried out. The first Annual Report showed that the majority (98%) accessed termination of pregnancy under section 12, indicating that the three-day interval does not present a significant barrier.

Reply to paragraph 11(b)

90. Section 11 permits termination where there is a condition present that is likely to lead to the death of the foetus before or within 28 days of birth, subject to certification by two medical practitioners. There is no gestational limit for carrying out a termination under Section 11. Its provisions are consistent with the recommendations made by the Joint Oireachtas Committee and the Citizens' Assembly.

Reply to paragraph 11(c)

91. It is an offence to intentionally end the life of a foetus otherwise than in accordance with the Act. Its provisions do not apply to a woman who has ended/attempted to end her own pregnancy. The HSE has advised that there is a good geographic spread of General Practitioners providing services, together with ten maternity hospitals/units throughout the country. Further rollout of services are planned. There has been a very limited number of anti-abortion protests.

Reply to paragraph 11(d)

92. Health services for all International Protection (IP) applicants are mainstreamed. Applicants access health services through the same referral pathways as citizens including referral to maternity and abortion services. The Act provides universal free access to termination of pregnancy services for people who are resident in the State.

Right to life (arts. 6 and 7)

Reply to paragraph 12

93. Up to 7 July 2021, it is reported that 5,006 have died from COVID-19. The reported epidemiology is based on the Computerised Infectious Disease Reporting (CIDR) system. The cyber-attack on the HSE on 14 May 2021 has prevented the routine notification of COVID-19 data. As provisional measure, provisional epidemiological reports is prepared based on the information captured by the HSE COVID Care Tracker.

94. Once all COVID-19 surveillance systems are restored, the Department of Health and Health Protection Surveillance Centre (HPSC) will work to retrospectively collate and validate COVID-19 data during this period.

95. Of the 4,937 deaths notified prior to the cyber-attack, 2,284 were associated with outbreaks in residential settings including 2052 deaths associated with outbreaks in nursing homes, 121 linked to outbreaks in Community Hospitals/long-stay units and 111 deaths associated with other residential units.

96. Ireland's response to COVID-19 has been a Government public health led approach. The health sector response is led by NPHET which oversees and provides national guidance and advice.

97. The supports in relation to Long Term Care Facilities include public health guidance and training on infection prevention and control, provision of PPE, redeployment of staff, testing of nursing home staff, accommodation for healthcare staff at higher risk of COVID-19 and temporary financial support to nursing homes.

Reply to paragraph 13

Deaths in Detention

Number of deaths in custody 2017-2020 and results of subsequent investigations

<i>Cause of Death</i>	<i>Suicide</i>	<i>Misadventure</i>	<i>Natural Causes</i>	<i>Open</i>	<i>Narrative Verdict</i>	<i>Unlawful Killing</i>	<i>Inquest Pending</i>	<i>Annual Total</i>
2020	0	0	0	0	0	0	10	10
2019	0	0	0	0	0	0	14	14
2018	1	1	0	0	0	0	7	9
2017	2	1	2	2	0	0	2	9

Deaths in Custody 2017 – 2020 to date that took place while the prisoner was outside the prison on Renewable Temporary Release, Full Temporary Release or Unlawfully at Large:

<i>Year</i>	<i>Temporary Release</i>	<i>Renewable Temporary Release</i>	<i>Full Temporary Release</i>	<i>Unlawfully at large</i>	<i>Annual Total</i>
2020	1			1	2
2019	1	5			6
2018	2	7		1	10
2017	4	1			5

98. The Inspector of Prisons (IOP) investigates the circumstances surrounding deaths in custody. These are independent from investigations conducted by AGS or a Coroner. The reports are available on the IOP website.⁷

⁷ <https://www.oip.ie/death-in-custody/>.

99. Healthcare has been provided in Irish Prisons throughout the pandemic including mental health, dental and addiction services.

100. Detainees may be referred to hospital for specialist opinion as appropriate.

101. The Irish Prison Service (IPS) are reviewing the operation of Special Observation Cells (SOCs) in prisons as part of an overall review of Prison Rules. A review of the operation of the SOCs is still ongoing and is expected to be completed by Q4 2021. It is envisaged that new Standard Operating Procedures (SOPs) for SOCs will be drafted.

102. Measures have been implemented to prevent COVID-19 transmission in prisons. These were guided by NPHET's advice and were consistent with the WHO-issued prison specific guidance for the management of COVID-19. The measures include:

- A basic health check for all persons entering prisons;
- The replacement of physical family visits with video visits when required by COVID-19 restrictions;
- Testing of all new committals; enabling a prisoner to exit quarantine at an earlier stage, provided test results are negative;
- Isolation of suspected cases to prevent transmission. The provision of cocooned accommodation for vulnerable prisoners including those aged over 70 years or the medically vulnerable;
- Training for IPS staff and the provision of PPE;
- Conducting risk assessments and implementing additional controls;
- Communication with staff and prisoners and the establishment of a contact tracing model.

103. The IPS conducts a weekly review of measures, taking account of latest Government public health guidelines. Prisoners who are in isolation and quarantine have access to a range of services and facilities within the prison.

104. The IOP visited all 12 prisons during the first month of restrictions related to COVID-19. These visits examined how the prisons implemented COVID-specific preventive measures and their impact on prisoners.

105. There were no deaths of children in Oberstown Children Detention Campus during the reporting period. There has been no positive COVID cases among young people in detention or on remand.

106. The Oberstown campus school re-opened on 1 March 2021 and family screened visits have resumed, supported by health and safety procedures.

107. The resumption of physical visits is a priority for IPS and DOJ. This is subject to a number of factors including the risk of the Delta variant, the need to maintain infection control measures and the roll out of vaccination programmes.

108. A prison vaccination programme commenced on 9 June. In line with the vaccination schedule, physical visits to prisons will recommence on a phased prison by prison basis with visits resuming seven days after prisoners have been fully vaccinated.

109. It is expected that visits will have recommenced in all prisons by August and September.

Reply to paragraph 14

110. No excessive force has been used in policing protests against COVID-19 restrictions. The Policing Authority has found that AGS has acted with restraint in the policing response. Where protests have occurred, AGS engage with the individuals over a considerable period of time. In instances of continued non-compliance with public health regulations and failure to comply with AGS, and where gatherings became violent, AGS intervened in an appropriate manner to restore public safety.

111. The Private Security Authority (PSA), established under the Private Security Services (PSS) Act 2004, is the independent body which regulates the private security industry. The services licensable by the PSA would not be considered law enforcement activities. Private security companies are not permitted to carry firearms.

Trafficking in persons (arts. 6, 7, 8 and 24)

Reply to paragraph 15(a)

112. The Second National Action Plan to Prevent and Combat Human Trafficking was published in October 2016 and identified 65 actions to combat trafficking and assist victims. Work continues to proceed on the plan's implementation and new policy instruments are continually reviewed and introduced.

113. A Human Trafficking Stakeholder Forum was established in September 2020 and a subgroup of the Forum is working with DOJ on the development of a new Action Plan.

114. In 2020, IHREC was designated as Ireland's independent National Rapporteur for Anti-Human Trafficking. Its responsibilities include monitoring the implementation of anti-trafficking policy at the national level and playing a role in data collection on trafficking in human beings at national level.

Reply to paragraph 15(b) and (c)

115. AGS have within the Garda National Protective Services Bureau (GNPSB) a Human Trafficking Investigation and Coordination Unit. This unit undertakes investigations to assist victims, as well as identify suspects and evidence to present to the DPP.

116. All victims referred to AGS have their complaints investigated.

117. Once reported, a statement is taken in which details will be recorded regarding the matters alleged. Upon concluding that 'prima facie' evidence exists, an investigation team will be established.

118. Following the investigation, a file is submitted to the DPP who then decides on a prosecution.

119. On 11 June 2021, the first convictions for human trafficking in Ireland were handed down. Two individuals were found guilty on two counts of trafficking women from Nigeria into Ireland on dates between September 2016 and June 2018 contrary to the Criminal Law (Human Trafficking) Act 2008. There are a number of additional cases with trial dates set for 2021.

120. The Government recognises challenges with victims/witnesses not supporting the criminal justice process and, in conjunction with AGS and the DPP, are addressing how best to maintain the wellbeing of victims/witnesses throughout this process.

121. In May 2021, the Government approved plans for a revised National Referral Mechanism (NRM) to make it easier for victims of human trafficking to come forward and be supported, with a general scheme of a Bill to be drafted to put the new NRM on a statutory footing. The NRM provides a way for all agencies to co-operate, identify victims and facilitate their access to accommodation and support-

122. In regard to the "the 53 cases bought before the courts between 2014 and 2017" in 2018, AGS changed the manner in which it reported trafficking-related statistics. Until 2018, breaches of section 3(2), Child Trafficking and Pornography Act 1998, as amended by the Criminal Law (Human Trafficking) Act 2008, which relate to sexual exploitation of a child, had been included in statistics relating to incidents of trafficking. However, the offences concerned do not include the ingredients of human trafficking and comparable offences in other jurisdictions and are not included in statistics relevant to trafficking.

123. With the removal of these offences the corrected number of charges for Human Trafficking offences between 01/01/2014 and 31/12/2017, is eleven charges brought against three persons. None of these charges concluded in a conviction.

Reply to paragraph 16

124. Consent to treatment for persons involuntarily detained in a centre is outlined in Part 4 of the Mental Health Act 2001. Section 57 of the 2001 Act sets out the limited cases where treatment can be given without the patient's consent.

125. Sections 59(b) and 60(b) outline the conditions under which treatment can be given in the cases of electroconvulsive therapy and administration of medicine in cases where the patient cannot consent. In the case of administering both types of treatment to patients who cannot consent, the authorisation of a second consultant psychiatrist must be granted following referral by the consultant psychiatrist responsible for the patient.

126. The Mental Health (Amendment) Act 2015 amended sections 59(b) and 60(b) of the 2001 Act to remove 'or unwilling' in the provisions related to the continuation of electroconvulsive therapy and administration of medicine. The 2015 Act was commenced on 15 February 2016.

127. In July 2021, the Government approved heads of a bill to amend the Mental Health Act 2001, including a complete overhaul of Part 4 of the 2001 Act, generally in line with the recommendations of a 2015 Expert Group Review on the Act and aligned with the principles of the Assisted Decision-Making (Capacity) Act 2015.

128. The 2015 Act provides a statutory framework to support decision-making by adults with capacity difficulties. It provides for the end of the wardship system and the establishment of a new Decision Support Service (DSS). Features of this Act include:

- Presumption that a person has capacity to make a decision unless it is shown otherwise.
- Provision for five decision supporters – a Decision-Making Assistant, a Co-Decision-Maker, a Decision-Making Representative, an attorney in relation to an Enduring Power of Attorney, and a healthcare representative in relation to an Advance Healthcare Directive (ADH).
- Where a person does not have the capacity to make a particular decision alone, their capacity is assessed in relation to that decision. Service providers must enable a person to make their decision by supports appropriate to their capacity to make that decision.
- A legal framework for making ADHs.

129. This Act was signed into law on 30 December 2015 but has not been fully commenced. An amendment bill is needed to clarify technical issues with the 2015 Act. The amendment bill is due to be enacted by the end of 2021 with full commencement by June 2022.

Reply to paragraph 17(a)

130. Prison Governors are required to admit into custody all prisoners committed to prison by the Courts. The IPS continues to manage prison overcrowding issues by identifying potentially suitable prisoners for structured early temporary release or by transfer to other prisons, in order to reduce prison numbers and improve conditions.

131. As of 29 January 2021, the prison population was 3,716, which is a reduction on the prison population of 4,043 on the same date in 2020. The prison service is currently under capacity in all prisons with the exception of Limerick Female prison.

132. In September 2020, DOJ established a working group to conduct a review of policy options for prisons and penal reform. An Action Plan incorporating prison and penal reform initiatives for the period 2022-2024 will be published in Q3 2021. The development and expansion of a range of community sanctions is a key objective.

133. The review concluded that the principle of imprisonment as a sanction of last resort and a presumption against the imposition of custodial sentences of less than 12 months for individuals who do not pose a serious risk to the community should be incorporated into statute. This is currently being examined in the revision of the Criminal Justice (Community Sanctions) Bill 2014.

134. The Prison Service's Capital Strategy 2016-2021 outlines plans for the replacement of the accommodation in Limerick and Portlaoise prisons as well as improvements across other prisons. On completion of these projects, "slopping out" will be completely eliminated.

Reply to paragraph 17(b)

135. Rule 71 of the 2007 Prison Rules refers to Separate Accommodation and states: *'Unconvicted prisoners shall, in so far as is practicable and subject to the maintenance of good order and safe and secure custody, be accommodated in areas that are separate from those in which convicted prisoners are accommodated or to which convicted prisoners have access, and convicted prisoners shall, as far as is practicable, not be permitted access to areas to which unconvicted prisoners have access at those times when unconvicted prisoners have such access.'*

136. Cloverhill Prison is the only dedicated remand prison. Whilst every effort is taken by prison management to minimise the accommodation of remand and sentenced prisoners together it is not always possible to guarantee same.

Reply to paragraph 17(c)

137. The National Violence Reduction Unit (NVRU) has been operating in Portlaoise Prison since November 2018. It is managed by an Assistant Governor and Senior Psychologist. The NVRU provides an enhanced, psychologically informed service to those in custody who were typically being managed through a regime of 'barrier handling' and regular transfer between prisons due to their levels of violence in custody. There are currently four people on the NVRU for intervention.

Overview of P19 (disciplinary sanction) Data - 2 year pre/post NVRU

(This is preliminary data and includes people in custody who have been residing on the NVRU for less than two years.)

	<i>2 Yr Prior to NVRU Entry</i>	<i>2 Yr post NVRU Entry</i>	<i>% Change</i>
Overall P19 Reports	83	63	31.75%
Overall P19 for Violence/Threats	50	42	19%

138. There appears to be anecdotal evidence of a slight increase in violence particularly during the early stages of committal as people adapt to the new regime.

139. Due to the small size, intensive regime and strict adherence to protocols, it is likely that people in custody on the NVRU may be more likely to receive a P19 because their behaviour is more likely to be observed and recorded.

140. There are no similar facilities in other prisons. The IPS, in collaboration with the National Forensic Mental Health Service has established two dedicated areas where high support is provided to vulnerable prisoners with mental illness – D2 wing in Cloverhill Prison (for people on remand) and the High Support Unit in Mountjoy (for people who are sentenced).

Reply to paragraph 17(d)

141. Ireland ratified the UN Convention against Torture in 2002. Ireland is a signatory to the Optional Protocol and will ratify it, once the necessary legislation is in place to provide for National Preventive Mechanisms (NPMs) to inspect and monitor places of detention.

142. The Government has committed to ratifying OPCAT before the end of 2021. The intended approach is that the IOP is to be designated as a single NPM for the Criminal Justice Sector. DOJ is leading on the preparation for a multiple institution NPM model in terms of developing the necessary legislation for ratification of OPCAT. The Inspection of Places of Detention Bill is being drafted and it is intended to bring this to Government for approval in 2021.

Reply to paragraph 18

143. The Fines (Recovery and Payment) Act 2014 provides for alternative orders to imprisonment for the non-payment of fines.

144. The Act stipulates that a person who defaults on their court imposed fine must be brought to court, before a judge can make an alternative order. Once the defaulter attends the enforcement hearing, a judge can decide upon an attachment of earnings order, a recovery order, or a community service order. If the court is not satisfied with the alternative options, an order committing the person to prison can be made.

145. All outcomes require the attendance of the defaulter. In the event of non-attendance – and if satisfied that the original notice was served – a court may adjourn the enforcement hearing to a new date or issue a warrant for arrest.

146. A Departmental High Level Group – which includes representatives from the Courts Service, the Office of the Attorney General, AGS, the DPP, the IPS and the Probation Service – was established. Work is ongoing on how to improve the collection process.

Rights of Refugees and asylum seekers (arts. 2 and 13)**Reply to paragraph 19(a)**

147. The International Protection Act 2015 was commenced on 31 December 2016. It creates a single application procedure in Ireland’s protection process. Under this procedure, an applicant makes one application and has all grounds for seeking international protection and for permission to remain in the State on humanitarian grounds determined in one process. This replaces the sequential processing of applications under the repealed Refugee Act 1996.

148. The International Protection Office (IPO) within DOJ and the independent International Protection Appeals Tribunal (IPAT) replaced the Office of the Refugee Applications Commissioner (ORAC) and the Refugee Appeals Tribunal (RAT).

149. Under the transitional measures of the 2015 Act, IPO took responsibility for the processing of some outstanding 3,500 cases. A further 500 cases were transitioned post-commencement. Cases continue to be transitioned.

150. IPO is required to investigate applications on the basis of three elements, namely; determination of refugee status, determination of subsidiary protection status; and if there are grounds to grant a person permission to remain in the State. The level of investigation required is therefore more comprehensive, complex and time consuming.

151. Prioritisation of international protection applications is provided for in the 2015 Act. When the supporting documentation is returned by applicants, the IPO schedules applications for interview on the basis of date of application. Certain categories of applicant are also prioritised from refugee generating countries and unaccompanied minors. This approach has been agreed with the UNHCR.

152. The PFG commits to processing applications for international protection at first instance with the aim to reduce median processing times to 9 months or below.

Cases pending end Dec 2020 by length of time pending.

<i>International Protection applications pending at end December 2020*</i>	
Less than 3 months	346
Between 3 and 6 months	369
Between 6 and 12 months	701
Between 12 and 24 months	2 538
More than 24 months	1 042
Total	4 996*

* While statistics are correct at time of issue, they may be subject to data cleansing. Please note that these statistics do not include approximately 290 cases which were returned for processing following legal proceedings.

Applications made under the International Protection Act 2015, commenced on 31 December 2016:

<i>2017–2020</i>	
<i>Year</i>	<i>Total</i>
2017	2 920
2018	3 674
2019	4 781
2020	1 566*
Total	12 941

* Statistics may be subject to data cleansing.

The median processing time for all international protection applications determined at first instance in 2018 was 19.7 months, 17.5 months in 2019 and 17.6 months in 2020.

Reply to paragraph 19(b)

153. IPAT was established on 31 December 2016 and replaced the RAT. IPAT's function is to determine appeals against decisions made by an International Protection Officer on applications for protection status. IPAT also determines appeals under the EU Regulations 2018, as well as appeals against recommendations that an application be deemed inadmissible.

International Protection Appeals Tribunal Metrics and Data

<i>Year</i>	<i>2020</i>	<i>2019</i>	<i>2018</i>
Appeals received	1 260	2 065	2 127
Cases Scheduled	1 418	2 633	1 714
Decisions Issued	1 089	1 944	1 071
Total Appeals Completed	1 171	2 180	N/A
Live Appeals at Year End	1 655	1 544	1 596

Reply to paragraph 19(c)

154. The Government has pledged to end the system of asylum-seeker support commonly known as Direct Provision and replace it with a new International Protection policy. A White Paper was published in February 2021 and includes the following commitments:

- New measures ensuring that international protection applications are addressed as quickly as possible, while ensuring a human-rights-based approach.
- New models of community engagement, ensuring that the establishment of new accommodation is done in an inclusive fashion; and
- An annualised capital and current investment programme.

155. A revised Immigration, Residence and Protection Bill 2010 lapsed with the dissolution of the Oireachtas. In 2015, the protection elements of the Bill were brought forward separately in the International Protection Act 2015. The remaining elements have not been progressed to date.

156. Improvements are being made to the accommodation for international protection applicants. All properties selected were required to implement the National Standards for accommodation centres. Almost 77% of these accommodation centres offer access to self-catering and family spaces.

157. Discussions with HIQA are ongoing about the role of monitoring the services provided to those accommodated in these centres. Inspection of centres continued during the pandemic. All centres were inspected at least once in 2020. A vulnerability assessment process is being piloted by the International Protection Accommodation Service (IPAS). It will determine if an applicant is deemed to have special reception needs and how to address them.

158. COVID-19 Measures have been put in place by IPAS and the HSE. They were first implemented in March 2020. They include:

- Self-isolation facilities;
- Increased capacity to support social distancing;
- Enhanced cleaning regimes and provision of PPE;
- Regular communications on public health advice;
- Cocooning of all medically vulnerable and ‘over 65’ residents;
- Temporary Accommodation Scheme for healthcare workers; and
- Quarantine facilities for IP applicants entering or re-entering accommodation centres.

159. Since the beginning of 2020 over 1,550 bed spaces were procured. Over 600 residents were relocated to support social distancing and cocooning measures. No more than three single people are sharing a room. This policy will continue when the COVID-19 crisis is over.

160. A COVID-19 testing programme ran in September 2020 to safeguard residents and staff in all Accommodation Centres. Serial testing at individual centres, including the two centres in Kildare, have taken place as and when health authorities determined it to be necessary.

161. Residents who test positive are voluntarily moved offsite for self-isolation, along with their close contacts, until they can safely return.

Freedom of conscience and religious belief (arts. 2, 18 and 26)

Reply to paragraph 20(a)

162. The Education (Admission to Schools) Act 2018 aims to create an equitable approach to school admissions policies for all primary and post-primary schools.

163. The Act ensures that where a school is not oversubscribed and places are available, the school must admit all applicants. A school must indicate, in its admission policy that the school will not discriminate on any of the grounds specified in the Equal Status Act 2000.

164. The Government’s objective is to have 400 multi-denominational or non-denominational schools in the primary system by 2030. As of February 2021 there are now 159 multi-denominational primary schools and 359 multi-denominational or non-denominational post-primary schools.

Reply to paragraph 20(b)

165. Articles 12.8, 31.4 and 35.5.1 of the Constitution requires the President, judges and members of the Council of State to take a religious oath upon assuming office.

166. The Government approved consideration of an amendment to this provision in 2012. The matter was then referred to the Constitutional Convention.

167. Between 2013 and 2014, 27% of all public submissions to the Constitutional Convention had recommendations based on the secularisation of the Constitution.

168. Following the Convention, the 35th Amendment of the Constitution (Separation of Church and State) Bill 2017 included the removal of the requirement to sign a religious oath. The Bill lapsed with the dissolution of the Oireachtas in 2020.

Reply to paragraph 20(c)

169. The Equality (Miscellaneous Provisions) Act 2015, which commenced on 1 January 2016, provided for certain changes in the exclusion of discrimination on particular grounds in certain employments, including educational or medical institutions maintained, in whole or in part, by monies provided by the Oireachtas by amending Section 37 of the Employment Equality Act 1998.

170. The purpose of the amendment is to protect employees against discrimination, while respecting religious freedoms guaranteed in the Constitution.

171. The amended Section 37 imposes a higher burden of proof on relevant employers. It obliges them to show that any favourable treatment of an employee or prospective employee is limited to the religion ground and the treatment does not constitute discrimination on any of the other discriminatory grounds.⁸

172. Favourable treatment on the grounds of religion shall be taken to be discrimination, unless by reason of the nature of the institution's activities, the religion of the employee or prospective employee constitutes a genuine, legitimate and justified occupational requirement having regard to the institution's ethos, that the action taken against a person must be objectively justified by reference to that institution's aim of protecting its religious ethos and that the means of achieving that aim are appropriate and necessary.

Freedom of expression, assembly and association (arts. 2, 19, 21 and 22)

Reply to paragraph 21

173. The Government will undertake a review of the censorship arrangements, including the 1929 Act this year.

Reply to paragraph 22(a)

174. The Criminal Justice (Public Order) Act 1994 does not provide for any offence against peaceful assembly for the purposes of protest. The Act provides for offences of violent, intoxicated and disruptive behaviours in public places. The powers granted to AGS under the Act are all related to the commission of these offences and are designed to protect the rights of the public.

Reply to paragraph 22(b)

175. The Private Security Services Act does not convey law enforcement powers. A Bill to permit the Private Security Authority (PSA) to regulate the activities of private security personnel assisting those enforcing court orders within the remit of the PSA has not yet been enacted. The Bill contains amendments to the PSS Act 2004 and the Enforcement of Court Orders Act 1926, primarily to allow 'enforcement guard' to be included in the list of private security services to be licensed by the PSA under the 2004 Act.

176. The use of the Public Order Acts to police protests is an operational decision for the AGS Commissioner. The use of these Acts is engaged sparingly when incidents of violent disorder occur. Use of the powers of these Acts are proportional and subject to checks and balances by the DPP.

⁸ As outlined in paragraph 41.

Reply to paragraph 22(c)

177. Article 40.6.1 of the Constitution guarantees the right of persons to form associations and unions. Article 40.6.2 specifies that the laws regulating this right shall contain no discrimination.

178. The Industrial Relations Amendment Act 2015 provides a mechanism by which the fairness of the employment conditions of workers can be assessed in employments where collective bargaining does not take place. The legislation ensures the retention of Ireland's voluntary system of industrial relations. It also means that where an employer chooses not to engage in collective bargaining either with a trade union or an internal 'excepted body', and where the number of employees on whose behalf the matter is being pursued is not insignificant.

179. The 2001 Industrial Relations Amendment Act has been remediated to ensure that a framework exists that allows a trade union to have the remuneration and terms and conditions of its members in that employment assessed against relevant comparators and determined by the Labour Court, if necessary. It ensures that where an employer is engaged in collective bargaining with an internal 'excepted body', as opposed to a trade union, that body must satisfy the Labour Court as to its independence of the employer.

180. An explicit prohibition on the use by employers of inducements designed specifically to have staff forego collective representation by a trade union was introduced with the adoption of a statutory Code of Practice on Victimisation in October 2015.

Right to privacy (art. 17)**Reply to paragraph 23(a)**

181. The Data Protection Commission (DPC) is responsible for upholding the fundamental right of individuals to have their personal data protected. It monitors the application of the GDPR, and has functions related to other regulatory frameworks, including the Irish ePrivacy Regulations (2011) and the EU Law Enforcement Directive (LED). The statutory powers of the DPC are established under the Data Protection Act 2018.

182. The Public Services Card (PSC) is an identity token issued by the Department of Social Protection (DSP). It confirms that a person has authenticated their identity to a substantial level of assurance. This authentication process enhances protection of a person's personal data and privacy by ensuring that someone else cannot assume their identity, and supports the purpose of Article 17.

183. The Social Welfare Consolidation Act 2005 (SWCA)⁹ sets out the process to identity authentication to a substantial level of assurance. A person can be required to attend an interview at a DSP Office and to provide documentary evidence as may be required for the purposes of authenticating identity and may also be required to allow a photograph to be taken and to provide a sample of their signature.

184. Each photograph taken is compared with other photographs submitted. This is to ensure that only one person is using the same identity. A person's identity is therefore protected as is access to their data, consistent with Article 17.

185. The PSC can only be offered as proof of identity to a limited number of public bodies that are specified in the SWCA. It cannot be used or requested by any private organisation, or by any public body which is not specified in this schedule. The bodies specified in Statute are not obliged to request the PSC. These bodies can decide whether to rely on it alone or to use an alternative identity verification method.

186. The data that is collected is limited to 12 items as specified in the SWCA (including name, date of birth, place of birth, address, nationality, signature and photograph). The data is stored in secure, State-owned and operated datacentres. DSP is the controller for all such

⁹ <http://www.irishstatutebook.ie/eli/2005/act/26/enacted/en/html>

data. Its data processing operations comply fully with the GDPR, national legislation and are fully compatible with Article 17.

Reply to paragraph 23(b)

187. The SWCA stipulates that a person must authenticate their identity before being issued with a Personal Public Service Number (PPSN), a welfare payment, or a PSC by DSP.

188. It is a matter for each public body specified in the SWCA to decide whether a person must have authenticated their identity in this way before they can avail of services from that body. Although the SWCA provides the power for such bodies to request the PSC, most bodies continue to provide alternative options for people to authenticate their identity.

Reply to paragraph 23(c)

189. In 2017, the DPC commenced an investigation into the data processing DSP carries out in respect of the SAFE¹⁰/PSC process. The DPC sent its Final Report on this investigation to DSP in August 2019. An Enforcement Notice was issued to DSP in December 2019.

190. The DPC found that the processing of personal data to authenticate a person's identity for services delivered by DSP itself is lawful, but that the processing was not lawful when a person is acquiring a PSC solely for use with the services of other specified public bodies. It also found that DSP does not have the right to indefinitely retain supporting documents and information collected for authenticating identity, and that the information provided to users in respect of SAFE/PSC did not satisfy transparency requirements.

191. Having carefully considered DPC's report and having received legal advice from the Office of the AG, DSP is satisfied that:

- The processing of personal data for the authentication of a person's identity is lawful in situations where the person is acquiring a PSC for use with another specified public body;
- DSP has a right to retain data in respect of SAFE registration;
- The information collected and retained is proportionate to the purpose of authenticating identity;
- The information provided satisfies transparency requirements.

192. DSP has filed an appeal against the Enforcement Notice and the matter is currently before the Irish Courts.

193. The DPC has received complaints in relation to Real-Time Bidding (RTB), and is also currently engaged in a statutory inquiry in relation to this issue. This Inquiry commenced in May 2019 following the receipt by the DPC of submissions in September 2018 where concerns were raised regarding the online behavioural advertising industry and, in particular, the Google Authorised Buyers system. The DPC is now also handling the concerns, as raised in 2018, as a complaint for the purposes of Article 107 of the 2018 Act and Article 77 of the GDPR. The DPC has also received complaints forwarded by authorities from other member states. In view of the overlap of the issues between the complaints received to date by the DPC and the Inquiry, the DPC is progressing the Inquiry in the first instance, as its outcome will inform the outcome of the complaints.

194. The DPC is gathering all of the information needed to assess these issues. It is assessing the submissions received to identify further issues that remain to be addressed by Google. The DPC anticipates that it will have sufficient information to progress to the next stage of the Inquiry.

195. As the Inquiry is ongoing, the DPC cannot comment upon Google's compliance with the aspects of the GDPR under examination, nor would it be appropriate for it to express any views on the compatibility of the RTB process with the requirements of Article 17 of the Covenant.

¹⁰ Standard Authentication Framework Environment.

Participation in public affairs (arts. 7, 14, 25 and 26)**Reply to paragraph 24**

196. In December 2020, the Government approved the drafting of an Electoral Reform Bill. The general scheme of the Bill includes the establishment of an independent Electoral Commission by the end of 2021.

197. The Commission will report to the Oireachtas. Its functions will include:

- Policies to promote public awareness and enhance voter participation in respect of electoral events and referendums;
- The preparation and maintenance of a register of political parties;
- Preparing reports for the review of constituencies for the election of members to the Oireachtas and European Parliament;
- Researching electoral policy and procedure, and providing advice to the Oireachtas and to the Minister for Housing, Local Government and Heritage;
- Oversight of the Register of Electors; and
- The regulation of online political advertising during electoral periods.

198. The Commission will take on additional functions, including the oversight of electoral events and functions currently held by the Standards in Public Office Commission, regarding political funding and election expenditure.
