



**International Covenant on  
Civil and Political Rights**

Distr.: General  
31 January 2020

Original: English  
English, French and Spanish only

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**Human Rights Committee**

**Fifth periodic report submitted by Ireland under  
article 40 of the Covenant, due in 2019\***


[Date received: 23 September 2019]

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\* The present document is being issued without formal editing.

GE.20-01469(E)



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## Article 1

### Right to self-determination

1. There have been no developments relating to this article of the Covenant since Ireland's last report (CCPR/C/IRL/4).

## Article 2

### Obligation to implement the provisions of the Covenant

2. The current institutional framework for the protection of human rights comprises the following agencies; the Irish Human Rights and Equality Commission, the Workplace Relations Commission, the Health and Safety Authority, the National Disability Authority, Office of the Ombudsman, Office of the Information Commissioner, Ombudsman for the Defence Forces, Ombudsman for Children, the Data Protection Commission, Press Ombudsman and Council, An Coimisinéir Teanga (the Language Commissioner), the Inspector of Prisons, An Garda Síochána Ombudsman Commission and the Policing Authority, the Health Information and Quality Authority, the Financial Services Ombudsman, the Mental Health Commission and Inspectorate of Mental Health Services, Citizens Information Board, the Money, Advice and Budgeting Service, the Residential Tenancies Board, and the Rent Tribunal.

3. Further information on these agencies is set out at paragraphs 104–134 of the Common Core Document.

#### A. National Human Rights Institution (NHRI)

4. Response to the recommendations in paragraph 6 of the concluding observations (CCPR/C/CO/4).

5. The Irish Human Rights and Equality Commission (IHREC) was established as an independent statutory body on 1 November 2014.

##### (i) Full conformity with Paris Principles

6. The IHREC was accredited as an “A” status NHRI in November 2015 recognising its full conformity with the Paris Principles.

##### (ii) Stable and sufficient budget

7. IHREC has autonomous control over stable core funding in order to discharge its function independently and effectively. The Commission's Director is directly accountable to the Public Accounts Committee, the Parliamentary Committee responsible for establishing how public funds are spent. In the years 2015–2018 the core funding provided to IHREC was as follows:

<i>Year</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>
Core Funding	€6 334 000	€6 306 000	€6 631 000	€6 703 000

##### (iii) Public sector duty

8. The Irish Human Rights and Equality Commission Act 2014 introduces a positive duty on public bodies to have due regard to human rights and equality in their work, and conduct their business in a manner that is consistent with individual human rights. The Commission assists public bodies to comply with the positive duty, including by producing guidelines and codes of practice.

## **Article 3**

### **Equal right of men and women to the enjoyment of all civil and political rights**

#### **A. The Constitution and the role of women**

9. Response to the recommendations in paragraph 7 of the concluding observations (CCPR/C/IRL/CO/4).

10. In September 2017, the Government signalled its intent to hold a referendum to delete Article 41.2 and the matter was referred to the Joint Oireachtas Committee on Justice and Equality for pre-legislative scrutiny. In its report, published in December 2018, the Committee agreed that the current wording of Article 41.2 is not acceptable and put forward two alternatives to the Government's proposal. The first was replacement by a provision containing more appropriate, gender-neutral language. The second option proposed a wide public consultation process, using the possible model of a Citizens' Assembly, to devise an amendment that would encompass the diversity of care work undertaken by persons of all genders. On 11 June 2019, the Government decided to establish a Citizens' Assembly to bring forward proposals to advance gender equality. Among other things, the Assembly is mandated to examine the social responsibility of care and women and men's co-responsibility for care, especially within the family. The Assembly may make proposals including for policy, legislative or constitutional change.

#### **B. National Strategy for Women and Girls 2017–2020**

11. The National Strategy for Women and Girls 2017–2020 (NSWG) was launched in May 2017 and provides a whole-of-government framework to advance women's empowerment. The Strategy's vision is: "An Ireland where all women enjoy equality with men and can achieve their full potential, while enjoying a safe and fulfilling life". It sets out 6 high-level objectives which aim to advance socio-economic equality for women and girls; to promote their physical and mental well-being; to increase their visibility in society and equal and active citizenship; to promote women's participation in leadership; to combat gender based violence; and to embed gender equality in decision-making. These objectives are advanced through 139 actions, undertaken by Government Departments and State agencies, in cooperation with social partners and civil society as appropriate. Funding for actions included in the Strategy is provided under the voted moneys allocated to the Government Departments with responsibility for each action.

12. A Strategy Committee chaired by the Minister for Equality, Immigration and Integration and comprising government departments, women's groups, civil society actors, the trade union movement and business representatives, advise on its implementation. The first progress report was submitted to Government in March 2019 and is available online [here](#).

13. Preparations are underway for a mid-term review of the Strategy during 2019.

#### **C. Women's representation in leadership and decision-making**

##### **(i) Political representation**

14. The Electoral (Amendment) (Political Funding) Act 2012 introduced gender quotas for national politics, requiring political parties to select at least 30% of candidates of each gender for national elections or else lose 50% of their State funding for the parliamentary term. There was an increase in the number of female candidates running in the 2016 general election. 35 women were elected to the Dáil, an increase of 10 on the 2011 general election and the highest ever number of female Teachtaí Dála (members of parliament). The percentage of women among Dáil members rose to 22% from 15% in 2011.

15. The Irish Women's Parliamentary Caucus was established in 2017 as a cross-party forum for past and present Irish women parliamentarians to discuss and campaign on issues affecting women. It hosted the first International Congress of Parliamentary Women's Caucuses in September 2018, bringing together female parliamentarians from more than 40 countries.

16. Under a commitment in the National Strategy for Women and Girls, the Department of Housing, Planning and Local Government undertook projects that promoted the participation of women in the 2019 local elections. These included incentivising political parties to increase the proportion of women candidates and funding not-for-profit organisations to build awareness and support women in Ireland to run for politics.

**(ii) State boards**

17. Since the introduction of new guidelines for identifying candidates for appointment to positions on State Boards, the average representation of women among the membership of such boards has increased reaching 41.5% by December 2018. Almost half of individual boards, 48.5%, meet the Government's gender balance target of 40% for minimum representation of men and of women.

**(iii) Business leadership**

18. In 2018, 18.1% of board members of the largest publicly listed companies in Ireland were women. The "Balance for Better Business" Review Group of senior figures in business and the public service, was established in July 2018 in line with a Government commitment to boost the representation of women on corporate boards and senior business leadership in Ireland. The Group's first report, published in May 2019, outlined ambitious targets for listed Irish companies and advice on how to reach them.

**(iv) Leadership in the higher education sector**

19. Measures to further accelerate progress in achieving gender equality in Irish Higher Education Institutions were identified by the Gender Equality Taskforce in its November 2018 report.

## **D. Female labour market participation**

20. The Childcare Support Act 2018 was signed into law in July 2018. It underpins the National Childcare Scheme (NCS), currently in development and designed to have a positive impact on gender equality with reference to labour market participation and employment opportunities. It aims to support parental choice and geographic access with regard to registered Early Learning and Care and School Age Care providers. All children will be supported with priority given to those in lowest income and most disadvantaged groups, especially lone parents.

21. 'First 5: The Whole-of-Government Strategy for Babies, Young Children and their Families' (2019–2028) was published in November 2018. It sets out measures to encourage greater participation of women in public and private sectors, including extension in provision for unpaid Parental Leave from 18 to 26 weeks, and in the upper age limit of the child for which the leave can be taken from 8 to 12.

## **E. Violence against Women**

22. Responses to the recommendations in paragraph 8 of the concluding observations (CCPR/C/IRL/CO/4).

**(i) Second National Strategy on Domestic, Sexual and Gender-based Violence 2016–2021**

23. The Second National Strategy on Domestic, Sexual and Gender-based Violence 2016–2021 (NSDSGBV) is a whole of Government response to Domestic and Sexual Violence and contains a range of actions to be implemented by Government Departments

and agencies. The bulk of the Strategy's actions are aimed at changing societal attitudes through awareness raising to help prevent domestic and sexual violence, improving services to victims and holding perpetrators to account. The community and voluntary sector, working in collaboration with the State agencies, has a crucial role in ensuring the delivery of a successful strategy. The strategy is a living document and has actions added on an ongoing basis. There are 72 actions with 13 having been added since its publication in 2016. The strategy is available online.

**(ii) Domestic Violence Act 2018**

24. The Domestic Violence Act 2018 came into operation on 1 January 2019. It updates and consolidates existing law in relation to domestic violence and incorporates new legislative provisions necessary to enable Ireland to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the "Istanbul Convention").

25. The Act creates a new criminal offence of forced marriage (section 38). A person commits this offence where they engage in behaviour involving violence, threats, undue influence or any form of coercion or duress, for the purposes of causing another person to enter into a ceremony of marriage. The Act also creates a new criminal offence of coercive control (section 39). This is controlling or coercive behaviour in an intimate relationship that causes fear of violence, or serious alarm or distress that has a substantial adverse impact on a person's day-to-day activities. The Act also provides for the relationship between a perpetrator and victim to be taken into account by the court as an aggravating factor in sentencing for violent and sexual offences, including manslaughter (section 40).

26. The Act provides that a court, when making a safety order or barring order, may prohibit a perpetrator of domestic violence from communicating with the victim electronically. The courts also have the possibility of recommending that a perpetrator engages with services such as programmes aimed at perpetrators of domestic violence, addiction or counselling services. In addition, the Courts Service is required to provide information on support services to victims of domestic violence.

27. The Act repeals the exemptions which had enabled persons under the age of 18 to marry. This measure assists in protecting minors from forced marriage.

**(iii) Istanbul Convention on preventing and combating violence against women and domestic violence**

28. The Criminal Law (Extraterritorial Jurisdiction) Act 2019 was signed into law on 5 March 2019. This final legislative action enabled Ireland to ratify the Istanbul Convention on 8 March 2019.

**(iv) Sex Offenders (Amendment) Bill**

29. The General Scheme of the Sex Offenders (Amendment) Bill was published in June 2018 amending provisions with regard to the management of sex offenders under that Act. It also includes a number of amendments to the notification requirements (sex offenders register) under the 2001 Act. The Bill is currently being drafted.

**(v) Criminal Law (Sexual Offences) Amendment Act 2019**

30. The Criminal Law (Sexual Offences) Amendment Act was enacted in February 2019. Its main purpose is to introduce stricter penalties for repeat sexual offenders and to equalise the maximum penalties for incest at 10 years for both male and female offenders.

31. The new provisions set out the arrangements for sentencing for repeat sexual offenders, allowing for minimum terms of imprisonment of three quarters of the maximum term of imprisonment prescribed by law in respect of such an offence. Where the maximum term is life imprisonment, the minimum shall be specified as a term of not less than 10 years.

32. The court has discretion in the application of the sentence if satisfied this would be disproportionate in all the circumstances of the case. The Act also contains amendments to

the Punishment of Incest Act 1908 in order to equalise the penalty for incest at 10 years' imprisonment for offences by both males and females.

**(vi) Harassment, Harmful Communications and Related Offences Bill 2017**

33. In May 2019, the Government approved the drafting, on a priority basis, of amendments to the Harassment, Harmful Communications and Related Offences Bill 2017. The Bill is based on the 2016 report by the Law Reform Commission. It proposes a number of new offences, including taking and distributing intimate images without consent, online or digital harassment, a specific offence of stalking, an expanded offence with regard to sending threatening or indecent messages and also one which will deal with "revenge pornography". Work is also proceeding on the creation of a new image-based offence of up-skirting.

**(vii) Implementation of the EU Victims Directive and the Criminal Justice (Victims of Crime) Act 2017**

34. The Criminal Justice (Victims of Crime) Act was enacted in November 2017 and transposes into domestic law the European Union's Victims Directive (2012/29/EU), which came into force on 16 November 2015. The Act provides new statutory rights for all victims of crime in Ireland and includes new rights such as the right to information and provision of certain supports and protection.

**(viii) Review of the investigation and prosecution of sexual offences**

35. In September 2018, following consultations with stakeholders, the Minister for Justice and Equality published Terms of Reference for the review of the investigation and prosecution of sexual offences. The Criminal Justice Strategic Committee has established a working group tasked with completing the review in 2019. It is chaired by Mr. Tom O'Malley BL, a member of the Law Reform Commission and Senior Lecturer in Law at NUI Galway and comprises experts from the Courts Service, Probation Service, An Garda Síochána and the Office of the Director of Public Prosecutions. The working group has been asked to have particular regard to published reports by expert bodies including the Rape Crisis Network Ireland.

**(ix) Services**

*(a) Tusla, Child and Family Agency*

36. Tusla, the Child and Family Agency has statutory responsibility for the care and protection of all victims of domestic, sexual and gender-based violence (DSGBV). Responsibility for funding of these services transferred to Tusla in its entirety in 2015 to enable a coordinated approach with a dedicated national budget, single line of accountability and greater support and oversight for service provision.

37. In 2018, Tusla allocated €23.8 million to DSGBV services, an increase of €1.7 million over 2017, and an overall increase of €4.3m (22%), since 2015. A network of 59 supported organisations provide, inter alia, emergency refuge accommodation services for women and children, community-based domestic violence services, and Rape Crisis Centres.

38. Tusla's key objective is to enhance access to quality services for victims of domestic violence by working in partnership with relevant statutory agencies, non-governmental organisations and other partners to progress implementation of actions under the NSDSGBV and the Council of Europe Convention on the Prevention of Violence Against Women and Domestic Violence (the Istanbul Convention).

*(b) Sexual Assault Treatment Units (SATU)*

39. The Department of Health commenced a policy review on Sexual Assault Treatment Units in 2018. These specialised units provide services to the victims of sexual assault 24 hours a day, 365 days a year at 6 locations nationwide. They aim to provide these services

within three hours of first contact, working in close collaboration with the Rape Crisis Centres and An Garda Síochána.

(c) *Garda National Protective Services Bureau*

40. The Garda National Protective Services Bureau was established in 2015 and is tasked with improving services to victims and the investigation of sexual and domestic violence incidents, and identifying and managing risk. It works with a nationwide network of Garda Victim Services Offices with dedicated staff in each of the 28 Garda Divisions.

(x) **Data collection**

(a) *Central Statistics Office (CSO)*

41. The Central Statistics Office, Ireland's national statistical office, is a statutorily independent body whose purpose is to impartially collect, analyse and make available statistics about Ireland's people, society and economy. It is responsible for publishing crime statistics in the State.

42. In 2018 the Government endorsed the recommendations contained in the Commission for the Future of Policing in Ireland report. One such recommendation addressed the need to improve the quality of the crime data in Ireland, and the way in which Gardaí record crime investigations. New publications of all Victim of Crime statistics by the CSO are now analysed by gender, age, date reported and the time between date of occurrence of the crime and the date reported.

43. Incidents of crime are recorded by An Garda Síochána on the computerised PULSE (Police Using Leading Systems Effectively) system. PULSE now provides for the automatic inclusion of Motive of Domestic Violence on non-crime domestic incidents. PULSE records age, gender, relationship/marital status, disability, religion, nationality and country of birth, but not ethnicity.

(b) *Sexual violence prevalence study*

44. In November 2018, the Cabinet approved the undertaking of a large national survey on the prevalence of sexual violence, to be repeated every decade, by the CSO. A completed sample of 5,000 adults, and a wide range of intimate questions on abuse in adult life and in childhood are envisaged. Provision has been made in the budget of the Department of Justice and Equality for the cost of the preparatory work required for the first year. The Government have agreed in principle to provide the necessary resources in succeeding years through annual Budget allocations.

(xi) **Prevention of domestic, sexual and gender-based violence**

45. The Department of Justice and Equality provides funding for awareness raising activities and perpetrator intervention programmes. Of the allocated €2.205 million non-pay budget in 2018, €950,000 was allocated for the national awareness campaign "What would you do?".

46. In 2018, the objective of campaign messaging moved from awareness raising to educational. Additional funding of €500,000 is being utilised to provide additional localisation to the national campaign over its lifetime.

47. The Department of Justice and Equality provided funding of €22,000 in 2018 to the Dublin Rape Crisis Centre for a sexual violence awareness and prevention programme for young people. This funding goes towards the running of five four-day long 'Bodyright' programme training events for staff from Youthreach and other alternative educational settings.

(xii) **Victims of Crime funding**

48. The Department of Justice and Equality provides annual funding to community and voluntary sector organisations in Ireland providing victim support services. Funding of €1.712 million was provided to 56 such organisations in 2018. Such services continue to

provide important information and support to victims of crime, including emotional support, court accompaniment, accompaniment to Garda interviews, accompaniment to sexual assault treatment units, counselling and referral to other services. Funding is also provided for services for child victims of homicide and child victims of sexual violence, as well as to other services providing support to victims of domestic and sexual violence.

**(xiii) Domestic violence perpetrator programmes**

49. Domestic violence perpetrator intervention programmes are delivered through a combination of non-government organisations and the Probation Service. Under the NSDSGBV, work is advanced on rolling out the Choices Intervention Programme, a national programme working with male perpetrators of domestic abuse. The aim of this programme is to support and challenge men engaged in domestic abuse to change their behaviour and attitude towards their partners.

50. Key features of this programme include the use of a uniform risk assessment tool, individual and group work and integrated but separate partner support work with the partners or ex partners of perpetrators. Funding of approximately €900,000 was made available by the Department of Justice and Equality in 2018 in order to deliver the Choices programme across 18 different locations in the State during the year and equivalent annual funding is expected to be provided in 2019.

## **F. Sexual Health and Reproductive Rights**

51. Responses to the recommendations in paragraph 9 of the concluding observations (CCPR/C/IRL/CO/4).

52. In Ireland, termination of pregnancy is regulated by constitutional and statute law. Until 2018, the principal constitutional issue was the equal right to life of the pregnant woman and the unborn as inserted into the Constitution by the Eighth Amendment in Article 40.3.3. Amending the legal position on abortion in Ireland required a change to Article 40.3.3 of the Constitution.

**(i) Deliberative process**

53. Following the reports of a Citizens' Assembly, in June 2017 and a Joint Committee of the Oireachtas (Parliament) in December 2017, the Government agreed to hold a referendum to delete Article 40.3.3 and substitute it with wording confirming that the Oireachtas may make laws for the regulation of the termination of pregnancy.

54. The referendum was held on 25 May 2018 and passed, with a vote of 66.4% Yes to 33.6% No. The Thirty-sixth Amendment of the Constitution Act was signed into law by the President on 18 September 2018.

**(ii) Health (Regulation of Termination of Pregnancy) Act 2018**

55. On foot of the outcome of the referendum, the Health (Regulation of Termination of Pregnancy) Act 2018 was passed by the Houses of the Oireachtas on 13 December 2018 and signed into law by the President on 20 December 2018. Services for termination of pregnancy commenced on 1 January 2019.

56. The main purpose of the Health (Regulation of Termination of Pregnancy) Act 2018 is to set out the law governing access to termination of pregnancy in Ireland. It permits termination to be carried out in cases where there is a risk to the life, or of serious harm to the health, of 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.

57. The Act provides universal access to termination of pregnancy services for people who are ordinarily resident in the State (i.e., services are provided free of charge). Women – from both within and outside the State – may also access the service on a private basis, should they so choose, subject to a fee.



58. The Act repealed the Regulation of Information (Services Outside the State for Termination of Pregnancies) Act 1995.

## **Articles 4 and 5**

### **Limited rights of derogation**

59. There have been no developments relating to these articles of the Covenant since Ireland's last report (CCPR/C/IRL/4).

## **Article 6**

### **Right to life**

#### **A. Coroners (Amendment) Act 2019**

60. The Coroners (Amendment) Act 2019 was signed into law on 23 July 2019. Its overall purpose is to set out in a clearer, more comprehensive, specific and stringent manner the legal framework for reporting and investigation of certain deaths. It will enhance Ireland's compliance with its obligations under the European Convention on Human Rights.

61. Among the measures in the Act are a strengthening of the powers available to coroners; requiring mandatory reporting in all cases of maternal or late maternal death, stillbirths (at not less than 24 weeks' gestation, or birthweight not less than 500g), intrapartum deaths and infant death; and mandatory inquest in cases of maternal death or late maternal death, and in any case where the deceased person was in State custody or detention at the time of his or her death (or immediately before the death).

#### **B. Independent Commission for the Location of Victims' Remains**

62. For further information on the Commission, please see Ireland's fourth periodic report, (CCPR/C/IRL/4), in paragraphs 198–202.

63. The Commission had a total of 16 persons on its list of the Disappeared and, to date, the remains of 13 of the Disappeared have been recovered, eleven of whom were recovered directly through the Commission's efforts. Three cases remain.

## **Article 7**

### **Right to freedom from torture or cruel, inhuman or degrading treatment or punishment**

#### **A. Magdalen Institutions**

64. Responses to the recommendations in paragraph 10 of the concluding observations (CCPR/C/IRL/CO/4).

##### **(i) Apology**

65. Ireland has issued two formal apologies to women who were resident in Magdalen Laundries. In February, 2013 the then Taoiseach (Prime Minister), issued an apology on behalf of the Government in Dáil Éireann (Lower House of the Irish Parliament). In June, 2018 the President of Ireland issued an apology to the women. That latter apology was made during the course of the 'Dublin Honours Magdalenes' event held in June, 2018, further details of which are set out below.

**(ii) Investigations**

66. The Irish Government is satisfied that the findings of the report of the Inter-Departmental Committee to establish the facts of State involvement with Magdalen Laundries – the McAleese Report (2013) – brought into the public arena a considerable amount of information not previously known about Magdalen Laundries and showed that many of the preconceptions about these institutions were not supported by the facts. The content of the report has been fully accepted by the Irish Government. The McAleese Committee had no remit to investigate or make determinations about allegations of torture or any other criminal offence. However, it did take the opportunity to record evidence and testimony that might throw light on allegations of systematic abuse. No factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions was found. The majority of women did report verbal abuse but not of a nature that would constitute a criminal offence. Working conditions were harsh and the work was physically demanding. A small number of women described instances of physical punishment, however, the majority said they had neither experienced nor seen other women suffer physical abuse. In addition, Mr Justice Quirke, whose report the ‘Magdalen Commission Report’ led to the establishment of the Magdalen Restorative Justice ex-gratia scheme, met with over 300 women and advised that their stories about their experience were consistent with the observations provided in the McAleese Report.

**(iii) Prosecutions**

67. No individuals claiming to be victims of criminal abuse in Magdalen Laundries have made any complaints or requests to the Department of Justice and Equality seeking further inquiries or criminal investigations. It is open to anyone who believes a criminal act took place to make a complaint to the relevant authorities and it will be investigated.

**(iv) Effective remedies for victims, including appropriate compensation, restitution and satisfaction**

68. Arising from a recommendation made by the Ombudsman, the Government decided in May 2018 to apply the scheme to women who worked in the laundries of the 12 ‘Magdalen’ Institutions and who were resident in one of 14 adjoining institutions. The scheme established in 2013 also remains open. To date just over €27.4 million has been paid in lump sum payments to 723 successful applicants, who also receive pension and health benefits. The Scheme has been advertised extensively in many countries as well as in Ireland.

**(v) Support and rehabilitation services for victims**

69. A “Dublin Honours Magdalenes” event was held in June, 2018 attended by over 200 former residents of Magdalen institutions and companions. The event was organised by a voluntary group, with financial and other support from the Government. It provided an opportunity for the women to express their views on a suitable memorial. Options for this are currently under consideration.

70. Services to the women such as pension and health benefits are provided on a cross-departmental basis and officials in the Department of Justice and Equality engage and advise the women on all matters.

**B. Mother and Baby Homes**

71. Responses to the recommendations in paragraph 10 of the concluding observations (CCPR/C/IRL/CO/4).

72. The three-person Commission of Investigation into Mother and Baby Homes and Certain Related Matters was established by Government Order in February 2015 to provide a full account of what happened to vulnerable women and children in these Homes during the period 1922 to 1998. The Commission comprises Judge Yvonne Murphy (Chair), Dr William Duncan and Professor Mary E Daly and its scope includes seven specific questions

on practices and procedures regarding the care, welfare, entry arrangements and exit pathways for the women and children who were residents of these institutions.

73. The Commission has prepared five Interim Reports to date: July 2016; September 2016, September 2017; December 2018 and April 2019. All five reports have been published. These Interim Reports focus on the investigative process, the collation and analysis of documentation and specific concerns around the scale of the task and the engagement with witnesses. The Commission's most recent report focused on burial practices. Its final report is due to be completed by February 2020.

74. In 2018 the Minister for Children and Youth Affairs established the Collaborative Forum to facilitate dialogue and action on issues of concern to former residents of the institutions which historically focused on services for unmarried mothers and their children.

75. The Forum's membership is comprised of a majority of former residents of Mother and Baby Homes and County Homes who were selected for appointment through an independent selection process.

76. In December 2018 the Forum submitted its first report which included a number of recommendations that are under consideration by the relevant Government departments.

77. In March 2017 the Commission reported that it had identified a significant number of children's remains in underground chambers on the Tuam site. It is believed that these chambers may have formed part of the wastewater treatment works at the former Home. In October 2018, Government approved the phased standard forensic excavation of the available site. New legislation is being developed to facilitate this action.

## **C. Symphysiotomy**

78. Responses to the recommendations in paragraph 11 of the concluding observations (CCPR/C/IRL/CO/4).

### **(i) Investigations**

79. Three independent investigations have been undertaken on the issue of symphysiotomy. The first two reports, compiled by Professor Oonagh Walsh and Judge Yvonne Murphy respectively, sought to establish the extent of these procedures and whether a compensation scheme should be established.

80. The third and final report was produced by Judge Maureen Harding Clark and published in October 2016. Judge Clark provided a report in her capacity as Assessor to the Symphysiotomy Payment Scheme and also included an independent report on the issue of symphysiotomy. It contains appendices with historical information from hospital reports at the time symphysiotomies were undertaken and also an appendix with details on diagnostic imaging and clinical evidence supporting the conclusions arrived at by the Assessor and her clinical team.

### **(ii) Punishment of perpetrators**

81. Judge Clark analysed available evidence on the issue, both domestic and international. In addressing the question of whether symphysiotomy was a deliberate act of torture, the Judge found that neither the records of the applicants to the Scheme nor narratives contained in the Clinical Reports from the major maternity hospitals at the time symphysiotomies were undertaken support the view that symphysiotomy was anything other than an attempt to improve maternal and foetal outcomes.

82. In her report, Judge Clark stated "[i]ts primary purpose was to avoid caesarean section by permanently enlarging a marginally small pelvis. Married women were expected to have several children as families at that time were large by today's norms... There was no evidence of any kind to suggest intention to inflict pain. The prevailing philosophy in the Dublin maternity hospitals was plainly conservative in relation to caesarean section and was repugnant to sterilisation". Judge Clark noted that most applicants to the Scheme had at least four normal deliveries after the symphysiotomy.

83. Based on the research and evidence now collated including academic texts and the decision of a High Court case dating from 2015 (see below) it cannot be accepted that obstetricians at the time, were perpetrators who should now be punished. Irish and international studies indicate that symphysiotomy is not a banned procedure but has a place in obstetrics in certain limited circumstances. For example, it may still be used in the western world in the delivery of a trapped head in breech delivery, or in emergency obstetric situations.

**(iii) State provision of an effective remedy**

84. The State established the Symphysiotomy Payment Scheme in November 2014, with Judge Harding Clark acting as independent Assessor. The main purpose of the Scheme was to help find closure for the majority of women without the need to face an uncertain outcome through the courts. In establishing the ex-gratia scheme a key objective for the State was to ensure that the State's engagement with the women was undertaken in a sympathetic, compassionate and equitable fashion and that further stress was minimised. It was anticipated that around 350 women would apply to the Scheme, but in fact 590 applications were received. The Scheme concluded with awards being made to 399 women, ranging from €50,000 to €150,000. Many women took legal advice and the State facilitated this by payment of their legal costs. These total legal costs were circa €2.1 million.

85. Judge Clark worked with each woman or her legal representative to locate medical records and met some of the women where necessary. Each application received an individual, careful assessment by Judge Clark assisted by a team of clinical experts. Medical evidence was sought to explain delivery records and when claims could not be reconciled with established facts, the applicant was examined by relevant clinical experts. When all efforts failed to obtain records, the Scheme moved to seeking secondary proof of symphysiotomy, by evidence of a scar and radiology evidence.

86. The Judge referred to "acquired group memory" to describe the statements from some women in instances where applicants clearly believed or had been led to believe that they had been "mutilated and that their pelvis had been sawn in half and broken in two or fractured". In a number of cases women thought they had undergone a symphysiotomy, but there was no medical evidence or clinical records to support this.

**(iv) Access to the Courts**

87. The establishment of the ex-gratia scheme did not require or compel any woman to forgo her right to initiate a case in Court. In 2015, the High Court heard the case of woman who had a symphysiotomy 12 days before her baby was born in 1963. Having reviewed all of the evidence, the Judge held that the procedure "was not without justification". The High Court decision was upheld by the Court of Appeal and in 2017 the Supreme Court declined to hear a further appeal. Awards were made to three other women whose cases came before the courts prior to the commencement of the scheme.

*(a) Judicial Review and women choosing to opt-out of the Scheme*

88. The Scheme provided applicants with the option of a judicial review of the outcome of their case. However, no case was ever judicially reviewed. One woman opted out of the Scheme after receiving an offer of an award to pursue her claim through the Courts. At the conclusion of the Scheme it was estimated that around 33 individuals had lodged cases with the courts.

*(b) European Court of Human Rights (ECtHR) cases*

89. ECtHR has communicated three applications to Ireland [Kathleen O'Sullivan against Ireland, application no. 61836/17, Linda Farrell against Ireland, application no. 62007/17 and Winifred Madden against Ireland, application no. 61872/17] arising out of symphysiotomy.

**(v) On-going medical services**

90. The Irish health services provide on-going medical services to the women who suffered symphysiotomy. These include:

- The provision of full General Medical Services eligibility on medical grounds i.e. medical card;
- Independent clinical assessments/advice (including, where requested a home assessment by an occupational therapist or physiotherapist);
- The arrangement of appropriate fast-tracked follow-up care where possible;
- The provision of counselling, physiotherapy and home help services;
- The arrangement of home modifications where necessary;
- A support group which is facilitated by a counsellor was established in 2004 and is still ongoing.

**D. Non-consensual psychiatric treatment**

91. Responses to the recommendations in paragraph 12 of the concluding observations (CCPR/C/IRL/CO/4).

92. Information on the Mental Health Commission is set out in paragraph 125 of the Common Core Document.

93. Amendments to the Mental Health Act 2001 are being progressed on the basis of 165 recommendations made by an Expert Group Review.

94. The Mental Health (Amendment) Act 2015 came into force in February 2016. It provides that where a patient admitted involuntarily under the Mental Health Act 2001 has capacity and refuses ECT or medicine (after 3 months), that patient's wishes will be respected.

**E. Deprivation of liberty**

95. The Department of Health is continuing to progress the general scheme of a Bill to provide legislative clarity and procedural safeguards in regard to deprivation of liberty. A public consultation concluded in May 2018.

**F. Corporal punishment**

96. Responses to the recommendations in paragraph 14 of the concluding observations (CCPR/C/IRL/CO/4).

97. In November 2015, the Children First Act 2015 was enacted. It amends the Non-Fatal Offences against the Person Act 1997 by inserting a new article 24A abolishing the defence of reasonable chastisement in relation to corporal punishment. The new law ensures that children have the full and necessary protection of the law in relation to corporal punishment in all settings; including the home. With regard to children in foster care, residential care and children who are placed in the care of relatives under the Child Care Act 1991, the removal of the defence of reasonable chastisement under Section 28 of the Children First Act 2015 was further strengthened by secondary legislation that came into effect in December 2015.

**G. Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

98. Ireland signed the Optional Protocol to the UN Convention against Torture in 2007. The Government is committed to ratifying OPCAT and has tasked the Department of

Justice and Equality with progressing the necessary legislation in cooperation with relevant sectors including health, defence, children and youth affairs.

99. Following consultations with a number of key stakeholders during 2017 and 2018, the Department of Justice and Equality is in the process of finalising the relevant draft scheme of the Inspection of Places of Detention Bill. It is intended that it will provide for a network of National Preventive Mechanisms (NMP) in relevant sectors. It will also provide for a co-ordinating mechanism to assist these NMPs and liaise with relevant stakeholders in implementing OPCAT.

100. The Health Service Executive (HSE) published its national adult safeguarding operational policy and procedures, *Safeguarding Vulnerable People at Risk of Abuse*, in December 2014. The policy provides clear guidelines and procedures for staff to follow in cases of suspected abuse or neglect of adults at risk of abuse (including older people and adults with disabilities at risk of abuse). The HSE has established a number of structures to implement the policy. These measures have replaced the elder abuse policy and structures reported on in Ireland's fourth periodic report (CCPR/C/IRL/4) in paragraphs 43–47. They include a HSE National Safeguarding Office leading the national implementation of policy and training, specialist regional Safeguarding and Protection Teams (a social work-led service with circa 73 staff); a national network of designated safeguarding officers, safeguarding training for public health staff members; and an advisory National Safeguarding Committee.

## **Article 8**

### **Right to freedom from slavery**

#### **A. Human trafficking**

##### **(i) Second National Action Plan to Prevent and Combat Human Trafficking in Ireland**

101. The State's actions against human trafficking are underpinned by the Second National Action Plan to Prevent and Combat Human Trafficking in Ireland, launched in October 2016. The plan was drafted with the co-operation of State and civil society partners. Its goals are:

- Prevent trafficking in human beings.
- Identify, assist and protect and support victims of trafficking in human beings.
- Ensure an effective criminal justice response.
- Ensure that Ireland's response to human trafficking complies with the requirements of a human rights-based approach and is gender sensitive.
- Ensure effective co-ordination and co-operation between key actors, both nationally and internationally.
- Increase the level of knowledge of emerging trends in the trafficking of human beings.
- Continue to ensure an effective response to child trafficking.

##### **(ii) Legislation**

102. There have been a number of legislative developments during the period covered by this report. These include:

- The ILO Forced Labour Protocol, which reinforces the international legal framework for combating all forms of forced labour, including trafficking in persons, was ratified by Ireland in February 2019.
- The Domestic Violence Act 2018 created an offence of forced marriage, including removing a person from the State in the knowledge that they will be subject to violence, threats, undue influence or other forms of coercion or duress for the

purpose of causing another person to enter into a ceremony of marriage. This addresses acts of coercion where the purpose is a broader form of sexual exploitation.

- The Criminal Law (Sexual Offences) Act 2017 criminalised the purchase of sexual services while decriminalising those who provide sexual services. A new offence of paying for sexual activity with a trafficked person in the context of prostitution was created, carrying a potential penalty of up to 5 years' imprisonment.
- The Civil Registration (Amendment) Act 2014 includes provisions which make it more difficult to broker marriages of convenience and marriages where exploitation may be a factor.
- The Criminal Law (Human Trafficking) (Amendment) Act 2013 came into effect in August 2013 and transposes Directive 2011/36/EU into Irish law. It expanded the definition of human trafficking to include exploitation of a person for the purpose of forced begging and for forced participation in criminal activities for financial gain.

### **(iii) Prosecutions**

103. An Garda Síochána continues to be active in investigating and prosecuting offences committed under Ireland's human trafficking laws. Between 2014 and 2017, there were 53 cases brought before the courts. Of these, 47 relate to minors who were exploited for personal gratification rather than commercial gain. The balance relates to one prosecution for human trafficking for sexual exploitation (commenced in 2016) and five prosecutions for trafficking for labour exploitation (one commenced in 2016; four commenced in 2017). In 2018, investigations were launched into 35 cases of trafficking for labour exploitation, 27 cases of sexual exploitation and two cases of trafficking for forced criminality.

104. Several specialised policing structures have been created:

- The Garda National Protective Services Bureau (GNPSB), established in 2015, and local Divisional Protective Services Units.
- The Human Trafficking Investigation and Co-Ordination Unit (HTICU), the national unit leading on the prosecution of human trafficking offences, and Operation Quest, which investigates prostitution and the criminality that surrounds it, are units within the GNPSB.

### **(iv) Demand reduction efforts and training of officials**

105. Significant demand reduction efforts through awareness raising took place over the period covered by this report.

106. Awareness raising projects have included targeting industry, including a 2016 Cross-Border Conference focusing on indicators of serious labour exploitation, prevention in businesses and supply chains, and reducing demand for suppliers who use forced labour. Campaigns have also been carried out to target other particular groups.

107. The strategic positioning of digital adverts against human trafficking at Dublin Airport and the promotion of a national website, [www.blueblindfold.gov.ie](http://www.blueblindfold.gov.ie), have also formed part of the awareness raising efforts.

108. Specialised training is delivered to frontline actors most likely to come into contact with victims of trafficking. These include Gardai, investigators, immigration officers and border guards, labour inspectors, social workers, diplomats and members of the Defence Forces.

### **(v) Human Trafficking and International Protection Applications**

109. Response to recommendations in paragraph 20 of the concluding observations (CCPR/C/IRL/CO/4).

110. See paragraphs 193 to 196 for information on the International Protection Act 2015.

(a) *Access to recovery and reflection period by victims who are International Protection Applicants*

111. The Recovery and Reflection period applies to all victims of human trafficking, including victims who are International Protection Applicants. Engagement during this period is voluntary on behalf of the victim or is necessary where there may be urgent issues that need to be addressed. During this period a person may not be deported.

(b) *Temporary Residence Permission for victims who are International Protection Applicants*

112. Non-EU citizens require permission to remain in the State. This may be acquired through two channels: firstly, an International Protection Applicant may receive permission upon applying for international protection; secondly, the Irish Naturalisation and Immigration Service (INIS) provides legal permission to live in Ireland while accessing the supports provided in the National Referral Mechanism (NRM). This temporary protection can evolve into a permanent residency status in Ireland.

113. International Protection Applicants automatically receive a permission to live in Ireland while their application is under consideration. In addition, if the person is identified as a victim, they will also have access to the NRM.

114. Within the International Protection Process, claims of human trafficking are considered as part of an application for International Protection. In certain circumstances, victims of trafficking can be considered a social group in danger of persecution if they were to be returned to their country of origin. Ireland recognises this and has previously granted protection under such grounds.

(c) *Use of Direct Provision Centres*

115. The adequacy of accommodation services provided to trafficking victims remains a priority. The existing Reception and Integration Agency (RIA)-based approach provides a geographical spread and medical services and facilities, including single-sex units.

116. Under the current model, transfers are possible from one centre to another for the health or security of the individual concerned.

117. While this accommodation is flexible, secure, and works well with other state actors, it is now recognised that best practice thinking is to place victims in specialist centres where they may receive specialist care and support each other.

(d) *Support to victims*

118. A range of assistance and support services are provided under Ireland's National Referral Mechanism (NRM) to both foreign and domestic victims of human trafficking, depending on their needs.

119. Where a victim does not wish to be referred to An Garda Síochána, NGOs receive State funding to provide services including emergency accommodation, counselling, medical care, and legal services.

120. The Legal Aid Board provides free legal advice to victims of human trafficking. Issues addressed cover immigration status in the State; the criminal trial process; information on civil and criminal compensation.

(e) *Child victims of trafficking*

121. The Second National Action Plan has a specific response to child trafficking. In relation to the protection of children against this crime, its principal actions are noted below:

Identification of child victims

122. Identifying a child victim of human trafficking at the time of entry to the State may represent the best opportunity to prevent their exploitation. Great emphasis therefore is placed on the training of border guards, including joint training with UK partners. Tusla is particularly alert to the vulnerabilities of separated children seeking asylum.



123. Specialised training is also provided to public service personnel who may encounter child victims.

#### Providing assistance to child victims

124. The Children First Act 2015 (see paragraphs 290 to 292), provides for mandatory reporting by key professionals; improves child safeguarding arrangements in organisations providing services to children and provides for cooperation and information-sharing between agencies when Tusla is undertaking child protection. In relation to in-country trafficking, under Section 12 of the Child Care Act 1991, An Garda Síochána has the authority to remove a child from a family situation where the child is deemed to be at serious risk and deliver them to the care of Tusla as soon as possible.

125. Tusla and HTICU have developed a protocol in relation to unaccompanied minors who arrive at ports of entry in Dublin. The Protocol covers such areas as co-operative interviewing, joint training and awareness-raising and the sharing of information.

126. Further safeguards are in place with the designation of managers of reception centres for asylum seekers as “designated liaison persons,” responsible for ensuring that child welfare reporting procedures are followed.

#### Best interests of the child

127. The Irish Government accepts that the best interests of the child should be the primary consideration in all actions concerning every child, including victims or presumed victims of trafficking. Tusla uses the UNHCR best practice principles in this regard. All separated children, including those who are identified as trafficked, are allocated a dedicated social worker at the point of referral/entry into care to act as the key carer and liaises with residential staff and foster parents in relation to the care of the child. The International Protection Act 2015 also incorporates this ‘best interests principle.’

#### (f) *Funding*

128. Funding has been provided to organisations working with victims of human trafficking to undertake projects to address the personal and social development needs of victims and raise awareness of related issues. The Department of Justice and Equality also provides significant mainstream funding (totalling circa €400,000 p.a.) to two NGOs, Ruhama and MRCI, who provide front line services to victims of, respectively, sexual and labour exploitation.

## **B. Atypical Working Scheme**

129. The Atypical Working Scheme for seafarers is administered by an inter-Departmental Oversight Group, which includes representatives from the Departments of Agriculture, Food and the Marine, Business Enterprise and Innovation, Justice and Equality, and Transport, Tourism and Sport.

130. Under the Scheme, a written contract of employment for a duration of 12 months must be in place between the employer and employee, certified by a practicing solicitor, to ensure that the person in question enjoys the full regulatory regime governing workplaces and any associated enforcement. A copy of this contract must be lodged with the central depository for Sea-Fishing Boats. A seafarer can make an application at any time during the 12 months for permission to move their employment to the owner of another qualifying vessel. This process is identical to that undertaken by the crew member to secure their original permission.

131. At least 50% of the members of the crew must be nationals of EU member states. This ensures that the non-EEA employees have a comparator in the workplace to help safeguard their rights. Employers/ships owners must comply with requirements under EU and National law.

132. The Workplace Relations Commission (WRC) does not have an express statutory role under Irish Human Trafficking and Forced Labour legislation. However, WRC Inspectors are trained in the identification of the indicators of Trafficking of Human Beings. The WRC is represented on the National Structures established to combat Forced Labour and is also a member of the High-Level Group on Combatting Trafficking in Human Beings established by the Criminal Justice Policy Unit of the Department of Justice and Equality. The Inspectorate of the WRC works closely with the Garda National Immigration Bureau (GNIB) and the Garda National Protective Services Unit in terms of the reporting of potential immigration and human trafficking issues encountered during inspections.

(i) **Enforcement actions of the WRC**

133. From April 2016 to the end of February 2019, 351 port inspections of the 186 whitefish vessels participating in this Scheme since 2016 were undertaken by WRC Inspectors. By the end of February 2019, the WRC inspection services had completed additional inspections and/or follow ups in respect of 149 vessels. These revealed that in 54% of cases no contraventions were detected. In cases where a contravention was detected, the matter was addressed following the issue of a Contravention Notice (i.e. without recourse to legal proceedings) in 89% of cases. While breaches of employment law have been detected during inspections of the Atypical Working Scheme, there has also been a noticeable improvement in compliance by the vessel owners.

134. Of some 171 vessels that come within the scope of the Atypical Working Scheme, the WRC inspection services have inspected 169 (over 99% of all vessels). Two of the vessels registered under this Scheme have not been detected in Irish ports in recent times.

## C. ILO Developments

135. In February 2019, Ireland deposited its instrument of ratification of the Forced Labour Protocol, becoming the twenty-ninth country worldwide to ratify the Protocol.

## Article 9 Right to liberty and security of the person

### A. Duration of detention and special care

136. For further information on the duration of detention, please see Ireland's fourth periodic report (CCPR/C/IRL/4) in paragraphs 303–317.

137. Special care is a secure care placement (i.e. detention in a secure facility) for children with highly complex behavioural and emotional needs that cannot be met in foster or general residential care. It is intended as a short-term secure care placement in a therapeutic environment with the intention of returning the child to a community or family-based setting as soon as possible.

138. Special care is used to address the risk of harm that may be caused to a child's life, health, safety, development or welfare by their behaviour. Children are admitted following a successful application to Tusla's Special Care Admissions Committee and upon the granting by the High Court of a special care order. The age range for admissions is 11 to 17.

139. The deprivation of liberty under a special care order is intended to protect the child's own welfare. It is not envisioned as a response to criminal activity and the granting of a special care order is subject to stringent requirements upon Tusla and the High Court. Special care orders are reviewed every 28 days.

140. Special care is regulated by the Child Care Act 1991 (as amended) and the Health Act 2007 (Care and Welfare of Children in Special Care Units) Regulations 2017. All special care units are designated centres under the Health Act 2007, and as such they are registered and inspected by HIQA an independent authority providing oversight of the health and care sectors.

141. A very small minority of children have highly specialised needs that require specialised secure psychiatric interventions and secure general placement outside the State. A specialised psychiatric facility in the UK is used to provide these placements.

142. The placement of Irish children in care in secure psychiatric facilities outside of Irish jurisdiction by Order of the Irish High Court occurs within the framework of Council Regulation (EC) No 2201/2003 – the Brussels II bis Regulation. The High Court retains regular oversight of these placements. Tusla maintains governance and oversight via its statutory obligations to children in its care.

143. The unit in which the children are placed are inspected and monitored by its national authorities and the Agency is attentive to the standard of care delivered in this specialised unit.

## **B. Police complaints procedure**

144. The Garda Síochána (Amendment) Act 2015 expanded the remit and powers of the Garda Síochána Ombudsman Commission (GSOC), the independent body responsible for receiving and dealing with complaints made by members of the public concerning the conduct of members of the Garda Síochána. In summary, the Act provides for the inclusion, for the first time, of the Garda Commissioner within the investigative remit of GSOC; the conferral of additional police powers on GSOC for criminal investigation purposes; and greater autonomy for GSOC in examining Garda practices, policies and procedures. It also enables the Garda Síochána Inspectorate to carry out inspections on its own initiative without the need for the prior approval of the Minister for Justice and Equality. Furthermore, the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015 provides for the establishment of the Policing Authority, an independent body, to oversee the performance of the functions of the Garda Síochána in relation to policing. As part of its remit, it holds meetings in public with the Garda Commissioner and the senior leadership team.

145. The report of the Commission on the Future of Policing in Ireland (CoFPI) to review all aspects of policing in Ireland was accepted by Government in December 2018. In relation to police misconduct it makes a range of recommendations aimed at reinforcing the independence of GSOC and ensuring that the processes for investigating allegations of misconduct are swift and transparent.

146. The Government has approved the development of the Policing and Community Safety Bill to give effect to the recommendations of the Commission report.

## **Article 10 The rights of prisoners**

147. Responses to the recommendations in paragraph 15 of the concluding observations (CCPR/C/IRL/CO/4).

### **A. Conditions of detention**

#### **(i) Overcrowding**

148. Efforts to reduce overcrowding are outlined in documents pertaining to Ireland's second national periodic report to CAT (CAT/C/SR.1548) which is available online.

149. Alternatives to custody, such as the Community Return Programme, continue to be pursued. For information on the programme, please see paragraph 386 in Ireland's fourth periodic report (CCPR/C/IRL/4). Since 2011, approximately 2,350 prisoners have been released early from prison to take part in the Community Return Scheme and approximately 2,650 prisoners have been released to take part in the Community Support Scheme.

150. Further, the Fines (Payment and Recovery) Act 2014 provides that the Court imposing a fine shall take into account a person's financial circumstances. As a result, there is a reduction in the number of committals to prison on short sentences.

151. Significant investment in the modernisation and renovation of parts of the prison estate and the construction of a new accommodation unit has been made. Refurbishment has taken place at Wheatfield Prison, Cloverhill Prison and the Dóchas Centre. Parts of Limerick Prison remain out of commission to facilitate a major capital building programme.

152. The average number of prisoners in the prison system peaked in 2011 (4,390) and then declined year-on-year until 2017 (3,680). However, 2018 saw a sharp increase with an average number in custody of 3,893. In May 2019, there were 3,988 prisoners in custody with a bed capacity of 4,244, which equates to an occupancy rate of 94%.

**(ii) Lack of in cell sanitation**

153. The Irish Prison Service is committed to a prison estate that provides safe, secure and humane custody, that upholds the dignity of all users, and that reflects and supports a modern and progressive penal policy.

154. Information on the elimination of “slopping out” is contained in the report of the review of Ireland’s second report under the Convention against Torture in July 2017.

155. A large capital investment project underway at Limerick Prison will see significant improvements in prisoner accommodation and related support facilities for all prisoners. When completed in 2021 “slopping out” will be eliminated at Limerick Prison. Refurbishment works are also being carried out at Portlaoise Prison and all but one block of the prison now provides for in-cell sanitation. The IPS remains committed to the elimination of slopping out in the prison system.

**(iii) Lack of segregation of remand and convicted prisoners, also segregation of detained immigrants and sentenced prisoners**

156. On 3 May 2019 there were 680 prisoners detained on trial/remand warrants with 237 sharing a cell with a sentenced prisoner. Where possible, remand prisoners are held separately from sentenced prisoners however due to increasing numbers this is not always possible. Cloverhill Prison is the only dedicated remand prison and it has been affected more significantly due to the increased number of committals in the past year.

157. Where an applicant for international protection is detained, the conditions of detention as set out in the European Communities (Reception Conditions) Regulations 2018, which transposed the EU (recast) Reception Conditions Directive into national law, are applied. In relation to the separate detention of persons refused entry/being removed from the State and those in the criminal process, a project is currently underway Dublin Airport to provide Garda Síochána-run detention facilities in this regard.

**(iv) Inter-prisoner violence**

158. A Violence Reduction Unit was established in Portlaoise Prison in November 2018. The operation of the Unit is grounded in international best practice and has due regard for obligations under European human rights law.

159. The Unit aims to meet each prisoner’s complex needs through improving their psychological health, wellbeing and behaviour in a centre of excellence operated by highly trained staff.

160. While operational and security factors remain important, a key feature of the management structure of this Unit is the significantly enhanced role of the Psychology Service. This new approach is intrinsic to the ethos of the Unit and forms the basis of the decision-making process.

(a) *Prisoner on prisoner assaults*

<i>Prison/Place of Detention</i>	2012	2013	2014	2015	2016	2017	2018
Arbour Hill	4	7	6	5	0	0	1
Castlerea*	73	103	119	117	139	79	76
Cloverhill	97	76	90	88	82	42	54
Cork	43	30	51	27	33	44	42
Dóchas Centre	25	21	16	47	30	33	28
Limerick	45	31	37	24	5	18	28
Loughan House	1	0	0	1	0	0	0
Midlands	68	88	77	47	50	45	44
Mountjoy (Male)	92	107	96	176	156	113	110
St.Patrick's Inst.	156	57	9	2	0	N/A	N/A
Portlaoise	12	5	11	2	15	14	0
Shelton Abbey	1	0	0	0	0	0	3
Training Unit	0	0	1	0	0	2	N/A
Wheatfield	98	77	74	47	55	24	20
PSEC	0	2	2	4	7	3	12
<b>Total</b>	<b>715</b>	<b>604</b>	<b>589</b>	<b>587</b>	<b>572</b>	<b>417</b>	<b>418</b>

(v) **Fully independent complaints system**

161. A prisoner complaints system was introduced in November 2012. For information on this system, please see Ireland's second periodic report to CAT (CAT/C/IRL/2), paragraphs 170 to 173.

162. The then Inspector of Prisons carried out a review of the system in June 2016 and published his findings along with a set of recommendations in his report "Review, Evaluation and Analysis of the Operation of the present Irish Prison Service Complaints Procedure".

163. Two of the key recommendations in the Inspector's report were that the complaints category system be simplified and that prisoners' complaints should be subject to review by the Ombudsman, who would also be able to deal with complaints directly in the case of undue delay. The recommendations were accepted and the IPS have been in advanced discussions with the Ombudsman's office with the view to establishing an effective complaints system for prisoners.

**B. Juvenile justice**(i) **Oberstown Children Detention Campus**

164. In accordance with section 196 of the Children Act 2001, Oberstown Children Detention Campus provides accommodation for all children remanded for a period of pre-trial detention, or committed to a period of detention, by a court of law who are aged not less than 10 years old and less than 18 years. Oberstown has a current capacity of 48 places for boys and 6 places for girls. A comprehensive care model of Care, Education, Health and Wellbeing, Offending Behaviour and Preparation for returning to families and community (CEHOP) was developed by Oberstown with the aim of achieving the best outcomes for young people in detention, in line with section 158 of the Children Act 2001. The principal objective is to provide appropriate educational, training and other programmes and facilities for children referred to them by a court.

165. Oberstown is staffed predominantly with residential social care workers who work directly with the children in each unit. In addition, children also have access to the

Assessment, Consultation and Therapy Service (ACTS), a national service that provides clinical services to children in Oberstown. The role of the service is to determine, based on the results of a mental health screening in conjunction with other available reports, if young people need more specialist assessment or intervention from specialists within the clinical team. Provision of an in-reach psychiatric service is provided through the HSE. Currently a psychiatrist and psychiatric nurse work as part of the multidisciplinary team which includes the ACTS and the Oberstown staff.

166. The provision of education in Oberstown is the responsibility of the Department of Education and Skills. The curriculum includes both primary and secondary level courses, remedial literacy and numeracy based on an Individual Educational Plan (IEP) as well as a wide range of vocational and Quality and Qualifications Ireland (QQI) accredited awards through the Oberstown Education Facility.

167. In April 2012, a capital investment package in excess of €56 million was secured to re-develop the facilities at Oberstown into the National Children Detention Facility. This has resulted in the development of 6 new residential units on campus, a new educational centre and a new administration building which includes facilities for meetings and a fully furnished health suite. The building works were completed in the main in 2016.

168. Section 155 of the Children Act allows for the transfer of children who reach the age of 18 in a children detention school to a prison or place of detention. It further allows for the Director of a children detention school to allow a child stay in the children detention school for up to 6 months after their 18th birthday if they are engaged in a course of education or are nearing the end of their period of detention.

**(ii) Children (Amendment) Act 2015**

169. Oberstown had comprised three children detention schools (CDS), each of which was separately managed, namely, Oberstown Boys School, Oberstown Girls School and Trinity House School. It was proposed that the three schools should be amalgamated and a unitary management structure put in place to form the Oberstown Children Detention Campus. In order to achieve this, the relevant provisions of the Children (Amendment) Act 2015 were commenced in June 2016.

170. The Act also includes provisions dealing with: remission of sentences in the children detention schools; repeal of provisions which permit the detention of children in adult prison facilities; clarification on the legal detention status of children who reach the age of 18 years while serving a sentence in the children detention schools; clarification of the power of An Garda Síochána to detain children already serving a sentence, for questioning in relation to other offences.

171. The Minister for Children and Youth Affairs made an order enabling the detention of 17-year-old males who are remanded in custody to Oberstown Boys School and Trinity House School with effect from 30 March 2015.

172. The Minister also signed the necessary orders, with effect from the 31 March 2017, under the Children (Amendment) Act 2015, to end the practice of detaining 17-year-old boys in adult prison facilities, such as St Patrick's Institution. Since then, all children who have been sentenced to a period of detention by the courts are accommodated in Oberstown.

**(iii) Children's Rights**

173. Systems are in place in Oberstown to ensure children are informed of their rights and have access to advocacy and guardian-ad-litem services. Oberstown Children Detention Campus has a published Complaints Policy and a Designated Liaison Person (DLP) is available to address any complaints from children or staff. In addition, children may contact the Office of the Ombudsman for Children.

**(iv) Separation of remands from committals**

174. In line with section 88 of the Children Act 2001, children remanded in custody to Oberstown are, as far as practicable and where it is in the interests of the child, kept separate from children in respect of whom a period of detention has been imposed.

**(v) Inspection**

175. The Criminal Justice Policy Unit developed a Safeguarding Policy to promote children's welfare, to safeguard children from harm or abuse, and to protect staff from potential false allegations of abuse. This followed a review of the Child Protection Policy document, which was in use across Oberstown. The Child Welfare Advisor in the Unit, also has responsibility for standards, inspections and complaint mechanisms in detention. Under Sections 185 and 186 of the Children Act, the Health Information and Quality Authority (HIQA) is appointed to inspect Oberstown. Its report and subsequent action plans are published.

176. Oberstown was inspected by the European Council's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in 2014.

**(vi) Bail Supervision Scheme**

177. Since October 2016, the Department of Children and Youth Affairs has operated a pilot Bail Supervision Scheme in the Dublin Children's Court, which is being evaluated with a view to examining the potential for its wider roll-out in the State. Over 50 referrals relating to young people and their families have been supported by the Scheme. The results from these referrals show increasing compliance with bail conditions; reduction in breaches of bail or new criminal activity, and a return to education.

**(vii) Figures**

178. In 2017, Oberstown had 176 children remanded in custody and 46 children sentenced to a period of detention over the course of the year.

**(viii) Youth Justice Action Plan 2014–2018**

179. The Youth Justice Action Plan, launched in April 2014, focused on children and young people who required targeted, strategic attention because their behaviour had led to their involvement in the youth justice system. It included a number of specific goals and objectives targeted at delivering better outcomes for children and to reduce crime and make communities safer.

180. The Action Plan also formed part of the broader national policies, particularly "Better Outcomes, Brighter Futures – the National Policy Framework for Children and Young People 2014 – 2020". Progress reports for the years 2014 through to 2017 have been published. Work has begun on preparing a new national Youth Justice Strategy which is expected to be published in 2020.

**Article 11****Right not to be imprisoned for failure to fulfil a contractual obligation****A. Imprisonment for failure to pay fines**

181. Response to the recommendation in paragraph 16 of the concluding observations (CCPR/C/IRL/CO/4).

182. The Fines (Payment and Recovery) Act 2014 was fully commenced and implemented on 11 January 2016. The Act provides that:

- Fines will be set at a level that takes into account the person's financial circumstances;
- All fines over €100 can be paid by instalments with the procedure for this provided for by way of regulation;

- If a person defaults, he or she is brought back to court where the judge first considers making an Attachment Order to a fined person's earnings which does not include attachment to social protection payments;
- If it is not appropriate to make an Attachment Order, the judge can make either a Recovery Order in cases where the fine is more than €500, or a Community Service Order;
- Where either an Attachment Order or a Recovery Order is made and the fine is still not recovered in full, the court can make a Community Service Order.

183. Imprisonment will only apply where it is not appropriate to make an Attachment Order, a Recovery Order or a Community Service Order or where a Community Service Order is made and the fined person fails to comply with it.

## **Article 12**

### **Right to freedom of movement**

#### **A. Right to travel and freedom of movement**

184. For information on the right to travel as recognised in Ireland, please see Ireland's fourth periodic report (CCPR/C/IRL/4) in paragraph 538.

#### **B. Freedom of movement after Brexit**

185. Both the Irish and British governments have committed to maintain the Common Travel Area (CTA) in all circumstances and entered into a Memorandum of Understanding to that effect on 8 May 2019. Under the CTA – which dates back to the 1920s – Irish citizens in the UK, and British citizens in Ireland, have the right to reside, work, study, and access healthcare, social security and public services in each other's countries as well as to vote in certain elections.

186. Ireland is a co-guarantor and co-signatory of the 1998 Good Friday Agreement (GFA) which is the foundation of the Peace Process in Northern Ireland. The GFA includes important provisions in respect of Citizenship and Identity and a Chapter on Rights, Safeguards and Equality of Opportunity.

187. In the context of the UK decision to leave the European Union, a key priority for Ireland has been to ensure that the GFA in all its parts is respected, including the provisions on Citizenship and Identity and the Chapter on Rights, Safeguards and Equality of Opportunity. These issues were specifically addressed as part of the Article 50 withdrawal negotiations between the EU and the UK.

188. Under any scenario for the UK's exit from the European Union, the obligations and commitments of the Irish and UK Governments under the Good Friday Agreement remain and Ireland will continue to work with the UK as co-guarantor to secure the full implementation of the Agreement and the effective operation of all of the institutions of the Agreement.

#### **C. Travel with the intent to commit a terrorist act**

189. The Government Legislative Programme includes the Terrorist Offences (Amendment) Bill which will give effect to the EU Directive (2017/541) on combatting terrorism, which consolidates existing EU measures to which Ireland had already given effect in the Criminal Justice (Terrorist Offences) Acts 2005–2015. The provisions of the Directive are largely in place already. Some amendments will be necessary to transpose provisions related to travel to third countries to engage in terrorist activities.



## **Article 13**

### **Rights of aliens**

#### **A. International Protection System**

190. Responses to the recommendations in paragraph 19 of the concluding observations (CCPR/C/IRL/CO/4).

191. In October 2014 a Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers was established by the Minister for Justice and Equality to carry out a complete review of the international protection system.

192. The Working Group was chaired by Mr Justice Bryan McMahon and comprised of members from UNHCR, NGOs, the protection seeker community, academia and relevant Irish Government Departments and Offices. The final report of the Working Group was published in June 2015. The Working Group made 173 recommendations for the reform of the protection process, including direct provision. The report was accepted by Government and three separate itemised progress reports on the implementation of the recommendations have been published, and 98% of the Working Group's recommendations have been implemented.

##### **(i) International Protection Act**

193. The International Protection Act 2015 was signed into law in December 2015 and commenced in December 2016.

194. The Act introduced a single procedure for applications for international protection, encompassing an examination and determination of eligibility for international protection (refugee or subsidiary protection) and permission to remain. Under the single procedure, an applicant makes one application only and will have all grounds determined in one process.

195. The Act also provided for a number of structural reforms. The former Office of the Refugee Applications Commissioner was subsumed into the Department of Justice and Equality as part of the new dedicated "Protection Office". Further, the Refugee Appeals Tribunal was re-established as the International Protection Appeals Tribunal with enhanced provisions relating to efficiency of proceedings and consistency of decisions.

196. Other key features of the Act include:

- Enhanced measures to improve the efficiency of the asylum system.
  - Specific guarantees for unaccompanied minor applicants.
- The enhancement of the national laws in respect of the EU Directive for giving temporary protection in the event of a mass influx of displaced persons to the territory of the Union.
- Permission to remain in the State if international protection is refused in compliance with Articles 3 and 8 of the European Convention on Human Rights.
- Provision for deportation orders to be made in respect of applicants that are refused permission to be in the State on all grounds and who do not opt for voluntary return. Such orders may be enforced under the Immigration Acts.
- Amendment of the Immigration Acts with regard to the removal of foreign nationals from the State, the civilianisation of border control duties, the designation of approved ports for immigration purposes and absolute clarity of the power of the Executive in relation to the entry into and presence in the State of foreign nationals.

## **B. Deportation**

### **(i) Illegal immigrants**

197. Any third country national who is illegally resident in the State is liable to be issued with a proposal to deport notification under section 3 of the Immigration Act 1999 (as amended). The notice indicates the options that can be exercised within a period of 15 working days, namely to leave the State voluntarily, to consent to deportation or to submit written representations setting out reasons as to why they should not have a Deportation Order made in respect of them.

198. While the State actively promotes the option of voluntary return at every available opportunity, directly and through the IOM, the majority of third country nationals, having legal representation, choose to submit written representations making a case as to why they ought to be granted permission to remain in the State.

199. In each case, the written representations submitted, as well as all other information and documentation on the relevant person's file, must be considered under the eleven headings set out in section 3(6) of the Immigration Act 1999 (as amended), and all other applicable legislation, before a decision is taken to make a Deportation Order or to grant permission to remain.

200. The person's right to a private and family life, under Article 8 of the European Convention on Human Rights (ECHR) will also be considered, as will the person's position vis-à-vis refoulement. Consideration will also be given to the rights of any Irish citizens directly associated with the case.

201. Only after all of these matters have been considered can a decision be taken to make a Deportation Order in respect of the relevant person or to grant them permission to remain in the State.

202. Where a decision to make a Deportation Order is taken, it is open to the relevant person to request a judicial review of the decision. In such circumstances it is a matter for the High Court to decide whether or not the impugned decision has been lawfully made. Where legal challenge is taken, no steps will be taken to enforce the Deportation Order until the matters before the Court have been resolved.

### **(ii) Specific to international protection applicants**

203. Where a third country national makes an application for international protection, their claims for international protection and discretionary permission to remain are considered as part of a single application procedure. Where the international protection claim is refused at first instance by the International Protection Office, this refusal determination can be appealed to an independent appeals body, the International Protection Appeals Tribunal. Where international protection is refused, both at first instance and on appeal, and the claims for permission to remain have also been refused, including on review, the relevant person is given five days to exercise the option of voluntary return.

204. The State actively promotes the option of voluntary return at this juncture. Where this voluntary return option is not exercised, and that person has no other basis to remain in the State, a Deportation Order will be made in respect of that person.

205. Where a decision is taken to refuse international protection and permission to remain, either of these outcomes can be challenged in the High Court by way of judicial review. In such circumstances, it will be a matter for the High Court to decide if or not the impugned decision has been lawfully made. Where legal challenge is taken, no further steps will be taken in that case until the matters before the Court have been resolved.

### **(iii) New information**

206. Any person subject to a Deportation Order can make a request, under section 3(11) of the Immigration Act 1999 (as amended), to have that Order revoked if they can point to new information or materially changed circumstances which were not before the decision-maker, nor were capable of being put before the decision-maker, when the decision to make

a Deportation Order was taken. The outcome of the consideration of any such request will be that the existing Deportation Order will be either affirmed or revoked.

**(iv) Statistical information**

207. The following table sets out statistical information on deportation orders made and effected and voluntary returns facilitated in the last five years:

<i>Year</i>	<i>Deportation Orders made</i>	<i>Deportation Orders Effected</i>	<i>Voluntary Returns facilitated</i>
2014	742	114	242
2015	764	251	132
2016	1196	428	187
2017	932	140	181
2018	1 187	163	213

**C. Direct Provision**

208. Between 2015 and 2017, the number of applicants who left the direct provision system after a period of three years or less increased significantly from 36% to 72%. Work is continuing to improve the situation further.

209. The government has committed to developing an Immigration and Residency Reform Bill and work on this legislation has commenced.

**(i) EU Receptions Conditions Directive (2013/33/EU)**

210. In July 2018 the European Communities (Reception Conditions) Regulations 2018, SI 230/2018 were signed, transposing the EU Receptions Conditions Directive (2013/33/EU) into Irish law. The Regulations bring in a number of important changes for asylum seekers in Ireland including introducing the right of International Protection Applicants to access the job market.

**(ii) Standards for Direct Provision Centres**

211. Following recommendations by the Working Group on Standards in Direct Provision, National Standards have been developed by the Standards Advisory Group, comprising representatives of Government Departments, NGOs and representative groups. These were published for public consultation in August 2018 and consist of three interconnected strands – Governance, Accommodation and People.

## **Article 14**

### **Right to fair and equal treatment before the law**

**A. Equality and human rights infrastructure**

212. The Employment Equality Acts 1998 – 2015 and the Equal Status Acts 2000 – 2015 prohibit discrimination on nine grounds against those in employment, seeking access to employment or participating in vocational training, and those seeking goods and services. These grounds are gender, civil status, family status, sexual orientation, religious belief, age, disability, race and membership of the Traveller community.

213. The Equality (Miscellaneous Provisions) Act 2015 amended both the Employment Equality Acts and the Equal Status Acts. This Act provides for changes in the exclusion of discrimination on particular grounds in certain employments; provides for changes relating to discriminatory job advertisements; and gives further effect to Council Directives 2000/43/EC of 29 June 2000; 2000/78/EC of 27 November 2000, 2004/113/EC of 13

December 2004 and 2006/54/EC of the European Parliament and of the Council of 5 July 2006; prohibits discrimination in the provision of accommodation on the basis of receipt of certain payments; and for those and other purposes, amends the Pensions Act 1990; the Employment Equality Act 1998 and the Equal Status Act 2000 and provides for matters connected therewith.

## **B. Garda Station Legal Advice Revised Scheme**

214. Response to the recommendation in paragraph 16 of the concluding observations (CCPR/C/IRL/CO/4).

215. Fees are paid to solicitors for consultations with persons detained in Garda stations in a number of circumstances. The Scheme was extended in May 2014 to include attendance of a solicitor at a formal interview between the Gardaí and the detainee. The Scheme is administered by the Legal Aid Board.

## **C. Legal Aid**

216. For information on legal aid, please see Ireland's fourth periodic report, CCPR/C/IRL/4, in paragraphs 579–588.

## **D. Judiciary**

### **(i) Appointment of judges**

217. For information on general appointment of judges, please see Ireland's fourth periodic report (CCPR/C/IRL/4) in paragraphs 589–598.

### **(ii) Gender breakdown of judges**

218. The gender breakdown of judges is as follows:

<i>Court</i>	<i>No of male judges</i>	<i>No of female judges</i>
Supreme Court	5	3
Court of Appeal	5	5
High Court	28	12
Circuit Court	23	17
District Court	37	27
<b>Total</b>	<b>98</b>	<b>64</b>

219. Two of the highest legal officeholders in the State, the Director of Public Prosecutions and the Chief State Solicitor, are women.

### **(iii) Tenure**

220. The tenure of judges in office is provided for under the provisions of the Courts (Supplemental Provisions) Act 1961 as amended.

221. There have been no developments since the previous state report. However, once enacted (anticipated in 2019), the Courts Act 2019 will amend the retirement age of District Court judges to 70 years. For further information on judges' tenure, please see Ireland's fourth periodic report, CCPR/C/IRL/4, in paragraphs 599–600.

## **E. Special Criminal Courts**

222. Information pertaining to the creation and functioning of the Special Criminal Courts can be found in the Common Core Document, in paragraph 65.

## F. Terrorism

223. For information on the definition of terrorism, please see Ireland's fourth periodic report in paragraphs 567–573.

224. The Criminal Justice (Terrorist Offences) (Amendment) Act was signed into law in June 2015. The Act amends the Criminal Justice (Terrorist Offences) Act 2005 to create three new offences: public provocation to commit a terrorist offence, recruitment for terrorism and training for terrorism.

### (i) Prosecutions under the Offences against the State Act (2008–2011)

The most recent arrest figures in respect of Section 30 of the Offences Against the State Act are as follows:

<i>Arrests, convictions and cases pending under the Offences against the State Act</i>			
<i>Year ending</i>	<i>Arrests</i>	<i>Convictions</i>	<i>Cases Pending</i>
31 May 2019	130	13	34
31 May 2018	194	23	84
31 May 2017	192	18	44
31 May 2016	226	16	58
31 May 2015	246	17	49

## Article 15

### Right not to have criminal sanctions imposed retrospectively

225. There have been no developments relating to this article of the Covenant since Ireland's last report to the Committee.

## Article 16

### Right to be recognised before the law

## A. Assisted Decision Making (Capacity) Act 2015

226. The Assisted Decision-Making (Capacity) Act 2015 provides a modern statutory framework to support decision-making by adults with capacity difficulties. Under the Act, capacity is assessed only in relation to the matter in question and only at the time in question. There is provision for three new types of decision-making support options (assisted decision-making, co-decision-making and decision-making representative) to respond to the range of needs that people may have. In each category, decisions can be made on personal welfare, property and finance, or a combination. Part 8 of the Act provides a legislative framework for Advance Healthcare Directives to enable a person with capacity to set out their will and preferences regarding treatment decisions that may arise in the future when they no longer have capacity.

227. In addition, the Act provides for the repeal of the Lunacy Regulation (Ireland) Act 1871 and the Marriage of Lunatics Act 1811. Finally, the Act also provides for the setting up of the Decision Support Service within the Mental Health Commission.

## **Article 17**

### **Right to privacy**

#### **A. Data Protection**

228. The General Data Protection Regulation (GDPR) entered into force across the EU on 25 May 2018. An accompanying Directive, which establishes data protection standards for the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences and the execution of criminal penalties, also came into force in May 2018.

229. The Data Protection Act 2018 entered into force in May 2018. The key purposes of the Act are:

- To give further effect to the GDPR in the areas in which Member State flexibility is permitted: (e.g. digital age of consent, restriction of data subjects' rights, penalties, establishment of Data Protection Commission),
- To transpose the Directive into national law,
- To establish the Data Protection Commission as the State's data protection authority with the means to supervise and enforce the protection standards enshrined in the GDPR and Directive in an efficient and effective manner,
- To enact consequential amendments to various Acts that contain references to the Data Protection Acts 1988 and 2003.

230. The new legal framework generally provides for higher standards of data protection for individuals, and imposes increased obligations on bodies in the public and private sectors that process personal data. It also increases the range of possible sanctions for infringements of these standards and obligations.

231. The processing of personal data must comply with the data protection principles set out in Article 5 GDPR and must have a legal basis. Similar provisions are set out in section 71 of the Data Protection Act 2018 in respect of the processing of personal data for law enforcement purposes.

#### **(i) Remedies**

232. A data subject who considers that their data protection rights have been infringed may lodge a complaint with the Data Protection Commission. The Commission is required to examine all complaints and take such action as it considers appropriate, having regard to the nature and circumstances of the complaint. The supervision and enforcement powers of the Commission are set out in Part 6 of the Data Protection Act 2018. Chapter VII of the GDPR provides for a "consistency mechanism", including for the designation of a "lead" supervisory authority, in respect of cross-border cases.

233. Sections 117 and 128 of the Data Protection Act 2018 provide that a data subject who considers that their data protection rights have been infringed has the right to seek a judicial remedy, including a right to seek compensation in respect of material or non-material damage.

234. A not-for-profit body, organisation or association which satisfies the conditions set out in Article 80.1 of the GDPR (section 120 of the Data Protection Act 2018, in the case of the Directive) may lodge a complaint with the Data Protection Commission or seek a judicial remedy on behalf of a data subject.

#### **(ii) Genetic Data**

235. Genetic data, as defined in Article 4(13) of the General Data Protection Regulation (GDPR), are personal data for the purposes of the GDPR and the Data Protection Act 2018. Moreover, under Article 9 of the GDPR and section 69 of the 2018 Act, genetic data are

classified as a special category of personal data and the processing of such data is subject to enhanced protection standards.

236. Article 9(4) of the GDPR also provides that Member States may maintain or introduce further conditions, including limitations, with regard to the processing of *inter alia* genetic data. In this context, section 42(2) of the Disability Act 2005, as amended by the Data Protection Act 2018, prohibits the processing of genetic data in relation to the following:

- Employment of a person,
- A policy of insurance or life assurance,
- A policy of health insurance or health-related insurance,
- An occupational pension, a retirement annuity contract or any other pension arrangement, or
- The mortgaging of property.

## **B. Gender recognition**

237. Response to the recommendations in paragraph 7 of the concluding observations (CCPR/C/IRL/CO/4).

238. The Gender Recognition Act 2015 came into effect in September 2015. The Act provides that a person aged 18 years or over may apply for legal gender recognition in their preferred gender on the basis of self-determination. This is done by means of an administrative process, involving a written application and a statutory declaration to live in the person's preferred gender for the rest of their life. There is also provision to revoke a legal change of gender, if the person so wishes.

239. A person aged 16 and not yet 18 years old may apply to the Court through a parent, or next friend, for an exemption from the requirement of a minimum age for gender recognition of 18 years. An application to the Court must be accompanied by a certificate from the child's primary treating medical practitioner and also a certificate from an endocrinologist or psychiatrist who has no connection with the child. There are currently no provisions for a person under 16 years to apply for legal gender recognition.

240. Once a gender recognition certificate is issued, the person's preferred gender becomes the legal gender for all purposes, including dealings with the State, public bodies, and civil and commercial society. A person can, if they wish, obtain a new birth certificate which shows their new legal gender, where their birth is registered in the State. They may also, if they wish, update other official documents, such as their passport, to reflect their new legal gender identity.

241. A review of the Act was conducted in 2018. The report, published in July 2018 recommended that a system of gender recognition be introduced for children of all ages and for people who are non-binary. Other recommendations concern issues such as Birth Certificate Reference Numbers; costs and privacy associated with updating official documents; the provision of information; and a further review of the Act.

242. Following the result of the Marriage Equality Referendum, the Gender Recognition Act 2015 was amended by section 24 of the Marriage Act 2015 to remove restrictions on persons who are married, or in a civil partnership, from applying for a gender recognition certificate.

## **Article 18**

### **Right to freedom of thought, conscience and religion**

#### **A. Blasphemy**

243. Response to the recommendations in paragraph 22 of the concluding observations (CCPR/C/IRL/CO/4).

244. A referendum to remove the offence of blasphemy from the Constitution was held in October 2018 with 64.8% voting in favour.

245. The Thirty-Seventh Amendment of the Constitution (Repeal of Offence of Publication or Utterance of Blasphemous Matter) Act 2018 provides for the removal of the reference to “blasphemous” from the Constitution. (Article 40.6.1<sup>i</sup> of the Constitution had previously specified that the publication or utterance of blasphemous, seditious, or indecent matter was an offence which should be punishable in accordance with law.) The legislation necessary to remove the offence of blasphemy from the statute book – the Blasphemy (Abolition of Offences and Related Matters) Bill 2019 – was published on 19 July 2019.

#### **B. Freedom of religion in schools**

246. Response to the recommendations in paragraph 21 of the concluding observations (CCPR/C/IRL/CO/4).

##### **(i) School Admissions**

247. The Education (Admission to Schools) Act 2018 provides for the amendment of the Equal Status Act 2000 to remove, in the case of recognised denominational primary schools, the existing provision that permits such schools to use religion as a selection criterion in school admissions. There is a protection in this provision to ensure that a child of a minority religion can access a school providing a religious instruction or religious education programme consistent with his or her religious beliefs. Schools that are not oversubscribed must continue to accept all applicants, regardless of religion and this will be further enforced by the remaining provisions of the Act, when commenced.

248. The Act contains a provision which, when commenced, will require that school enrolment policies include details of the school's arrangements for any students who do not wish to attend religious instruction.

##### **(ii) Increasing school choice**

249. The number of multi-denominational schools at post-primary level has increased by almost 9% in the last 10 years from 321 in 2009 to 349 in 2018. Schools under the patronage of Education and Training Boards are multi-denominational in nature, providing for their local communities regardless of their composition. At primary level, the number of multi-denominational schools has risen from 73 to 119 – an increase of 63%.

250. The Programme for Government commits to providing 400 multi-/non-denominational schools by 2030. The Schools Reconfiguration for Diversity process has been developed in order to help meet this target by providing more multi-/non-denominational schools across the country, in line with the choices of families and school communities. The reconfiguration process involves the transfer of live schools and has the potential to significantly increase patronage diversity in our school system.

251. In addition to the main provisions of this process, the “early movers” provision enables school communities to directly engage their patron and seek a transfer of patronage to a multi-denominational patron.

252. While the Schools Reconfiguration process structures are being progressed, the Department of Education and Skills is continuing to work with the main stakeholders to progress delivery of diversity in areas already identified as part of the 2012 and 2013



surveys under the patronage divesting process. In this regard, 11 multi-denominational schools have opened and it has been announced that a twelfth school will be established under this process by September 2019. The divestment model does not involve building new schools but requires the availability of school premises vacated, for example, due to amalgamation or closure.

**(iii) Relationships and Sexual Education (RSE)**

253. The National Council for Curriculum and Assessment (NCCA) is currently conducting a review of Relationships and Sexual Education (RSE) in schools, looking at both the content of RSE curriculum and support materials, as well as the delivery of the curriculum to students.

254. The review comprises a desk review of recently published research; consultations with key actors who have responsibility for or who work in the area; and working directly with schools to examine the experience of RSE in the classroom.

## **Article 19**

### **Right to freedom of expression**

#### **A. Broadcasting**

255. The Broadcasting Act 2009 provides for the licensing of traditional broadcast television and radio media. On-demand Audiovisual Services are regulated by co-regulation through the On-Demand Audiovisual Services Group. The regulation of Audiovisual Media Services is currently being revised to implement the provisions of the Audiovisual Media Services Directive introduced by the EU in November 2018.

256. No state-controlled media business or organisation exists in Ireland. Ireland's broadcast media landscape comprises of a mix of Public Service Broadcasters, Commercial Television and Radio (both national and local) broadcasters, and Community Radio and Television Broadcasters. In accordance with the Audiovisual Media Services Directive, no restrictions are placed upon channels broadcasting into Ireland from other EU Member States.

257. No system of licensing exists for print media.

258. The Competition and Consumer Protection Act 2014 introduced a new method of assessment for transactions involving media businesses. In addition to being assessed on Competition grounds by the Competition and Consumer Protection Commission, parties to a proposed "Media Merger" must notify the Minister for Communications, Climate Action and the Environment, who carries out an assessment to determine whether the results of the proposed transaction will be contrary to the public interest in protecting plurality of the media in the State.

#### **B. Review of Defamation Act**

259. The Department of Justice and Equality is currently reviewing the operation of the Defamation Act 2009 in accordance with a statutory requirement under Section 5 of the Act. The review included a public consultation process.

#### **C. Online Safety**

**(i) Action Plan for Online Safety**

260. Ireland's first Action Plan for Online Safety was published in July 2018. The Action Plan reflects a whole-of-Government approach and contains twenty-five Actions under five main Goals. The actions are assigned to six different Government Departments for implementation. The Action Plan is available online.

(ii) **Garda Blocking Initiative**

261. The Department of Justice and Equality has oversight of the Garda Blocking Initiative, which was launched in November 2014. Under a Memorandum of Understanding, a large internet service provider has agreed to block access to child abuse material on its network in accordance with a list provided by An Garda Síochána. If a user attempts to access child sexual abuse material that is included on this list, whether deliberately or mistakenly, access will be blocked and an advisory message will be displayed outlining the reasons why. One of the aims of the Initiative is to minimise inadvertent viewing of illegal material in particular by children.

262. Under the Action Plan, the Department of Justice and Equality will engage with providers and An Garda Síochána to extend the Garda blocking initiative to those providers with the largest share of the market.

## **Article 20**

### **Prohibition of incitement to hatred**

#### **A. National Migrant Integration Policy**

263. A new comprehensive Migrant Integration Strategy was launched in February 2017. This Strategy, which covers the period 2017 to 2020, contains 76 actions to be delivered by Government Departments, local authorities, public bodies, local communities, the business sector, sporting and arts organisations and NGOs, across a range of public policy and service provision areas. The Strategy is available online.

264. A Monitoring and Coordination Committee has been put in place. It is chaired by the Minister of State for Equality, Immigration and Integration and comprises senior officials from Government Departments and Agencies and representatives from Civil Society Organisations. It meets three times a year.

#### **B. Incitement to Hatred**

265. Under the 1989 Prohibition of Incitement to Hatred Act, it is an offence to incite hatred against a group of persons, based on a range of identity characteristics. In addition to this prohibition on incitement, where any crime is prosecuted under the wider criminal law, the judge in the case can consider hate or bias motivation as an aggravating factor to be taken into account at sentencing.

266. A review is underway examining the efficacy of the legislation and what amendments might be required in order to ensure it is effective and fit for purpose in a modern democracy. A public consultation on the Act is due to commence shortly.

267. Separately, the Department of Justice and Equality is undertaking research into hate crime (offences under the general criminal law, such as assault or criminal damage, that are committed with a hate or bias motivation), to learn from the approaches taken in other jurisdictions.

## **Article 21**

### **Right to peaceful assembly**

268. There have been no developments relating to this article since Ireland's last periodic report, CCPR/C/IRL/4.

## **Article 22**

### **Right to freedom of association**

#### **A. Trade Unions**

269. For information on the legislative provisions regarding the regulation of trade unions, please see Ireland's third periodic report (CCPR/C/IRL/3) in paragraphs 427–431.

270. In total there are forty-six registered trade unions with negotiation licences in Ireland, ten of which are employers' unions. No applications for registration of a trade union have been rejected in the period covered by this report. Membership numbers of trade unions vary in size with the smallest membership being 11 and largest being 202,787. The total number of members in registered trade unions in Ireland at the end of 2018 was approximately 567,242 (26% of the workforce).

271. The Irish Congress of Trade Unions (ICTU) is the single umbrella organisation for trade unions, representing a range of interests of ICTU members, both in Ireland and in Northern Ireland. The Department of Business, Enterprise and Innovation provides an annual grant of €900,000 to the ICTU to assist in meeting the cost of its education, training and advisory services. The fund's objective is to support the creation of a stable institutional framework for industrial relations, enabling the trade union movement to develop a centralised policy formulation, training and technical support role. The monies allocated finance several activities including the ILO's Decent Work Agenda.

#### **(i) Industrial relations**

272. General information on the State's industrial relations framework is set out in previous reports under the ICCPR.

273. The Industrial Relations (Amendment) Act 2015 which came into effect on 1 August 2015 provides a clear and balanced mechanism by which the fairness of the employment conditions of workers in their totality can be assessed in employments where collective bargaining does not take place. It brings clarity and certainty for employers in terms of managing their workplaces in this respect and ensures the retention of Ireland's voluntary system of industrial relations. Where an employer chooses not to engage in collective bargaining, an effective 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.

## **Article 23**

### **Rights of the Family**

#### **A. Marriage Equality**

274. A referendum on the question of amending the Constitution of Ireland to allow marriage to be contracted by two persons without distinction as to their sex was held on 22 May 2015. The referendum proposed to add the following text to Article 41 of the Constitution of Ireland: – "Marriage may be contracted in accordance with law by two persons without distinction as to their sex".

275. The referendum was passed by 62% of voters which meant Ireland became the first state to extend marriage rights to same-sex couples by popular vote. The Marriage Act 2015, giving legislative effect to the constitutional amendment, was enacted in October 2015 and came into operation in November 2015. As of that date, same-sex couples who married abroad could also have their marriages recognised in Ireland.

## **B. Divorce Referendum**

276. The Thirty-eighth Amendment of the Constitution (Dissolution of Marriage) Act 2019 was signed into law on 11 June 2019. The Act provides for the following amendments to the Constitution that were approved by the people in a referendum on 24 May 2019:

(1) Removing from Article 41.3.2 of the Constitution the minimum living apart period for spouses seeking a divorce; and

(2) Replacing the text of Article 41.3.3, which deals with the recognition of foreign divorces.

277. In July 2019, the Minister for Justice and Equality published the General Scheme of a Family Law Bill to reduce the minimum living apart period specified in the Family Law (Divorce) Act 1996 to two years during the previous three years (from four years during the previous five years).

## **Article 24 Rights of the Child**

### **A. Children's Rights**

#### **(i) Best interests of the Child**

278. Article 42A.4 of the Constitution requires that provision be made by law that in the resolution of all proceedings concerning the guardianship or custody of, or access to, any child, the best interests of the child shall be the paramount consideration. It also requires that provision be made by law for securing, as far as practicable, that in all such proceedings in respect of any child who is capable of forming his or her own views, the views of the child shall be ascertained and given due weight, having regard to the age and maturity of the child.

### **B. Children and Family Relationships Act 2015**

279. The Children and Family Relationships Act 2015 was enacted in April 2015 and modernised family law in relation to a wide range of areas such as parentage, custody, access, maintenance and donor-assisted human reproduction.

280. The 2015 Act addresses the rights of children to legal security, to the care of their parents and important adults in their lives, and to equality before the law. Step-parents, civil partners and cohabiting partners can now apply for custody, or to become guardians of a child. The Act also makes it easier for grandparents and other key people in a child's life to apply for access to children.

281. Parts 2 and 3 of the 2015 Act also provide a new legal framework for donor-assisted human reproduction and are intended to provide legal certainty to children born through donor-assisted human reproduction in terms of their parentage. Commencement of these parts is planned for May 2020.

### **C. Guardianship of Infants Act 1964**

282. Section 3 of the Guardianship of Infants Act 1964, as amended by section 45 of the Children and Family Relationships Act 2015, provides that the best interests of the child shall be the paramount consideration for the court in proceedings where the adoption, guardianship, custody or upbringing of, or access to, a child is in question. The best interests of a child are to be determined in accordance with the new Part V (sections 31 and 32) of the 1964 Act, which was inserted by section 63 of the Children and Family Relationships Act 2015.

283. Section 31 of the 1964 Act sets out an extensive list of factors and circumstances to be taken into account by a court when determining the best interests of a child. The court can ascertain the views of the child in person or through an expert. Section 32 facilitates the hearing of the voice of the child by enabling the court to appoint an expert to determine and convey the child's views to the court, so that the child's voice can be heard in the proceedings.

#### **D. Adoption (Information and Tracing) Bill 2016**

284. The Adoption (Information and Tracing) Bill 2016 provides adopted people and other relevant people with statutory rights to information and to a tracing service. It also aims to protect relevant records by bringing them into the custody of the Adoption Authority of Ireland and it will create offences for the concealment, destruction, mutilation or falsification of such records.

285. Committee Stage of the Bill commenced in June 2019 and is expected to resume in Autumn 2019, pending further consultation.

286. This legislation is necessary to put the information and tracing service on a statutory footing and provide for the safeguarding of records, having regard to the requirements of the GDPR.

#### **E. Tusla, the Child and Family Agency**

287. Tusla, the Child and Family Agency, was established on 1 January 2014 under the Child and Family Agency Act, 2013 and is responsible for improving wellbeing and outcomes for children.

288. Tusla brought together over 4,000 staff from Children and Family Services of the Health Services Executive, the National Educational Welfare Board, and the Family Support Agency and now has responsibility for the following range of services:

- Child Protection and Welfare services, including family support services.
- Family Resource Centres and associated national programmes.
- Early Years (pre-school) and Alternative Education inspection services.
- Educational Welfare responsibilities, including School Completion Programme and home school liaison.
- Domestic, Sexual and Gender-Based Violence services.
- Services related to the psychological welfare of children.

289. Funding for Tusla has increased by 25% since its foundation, from €609 million in 2014 to €760 million in 2018.

#### **F. Children First Act 2015**

290. The Children First Act 2015, which was fully commenced in December 2017, provides for a number of key child protection measures, including mandatory reporting of child protection concerns above a certain threshold by key professionals working with children, and the preparation of Child Safeguarding Statements by organisations providing services to children.

291. The Act operates side-by-side with the non-statutory obligations provided for in Children First: National Guidance for the Protection and Welfare of Children. The guidance sets out definitions of abuse, and signs for its recognition and reporting. These guidelines have been in place since 1999 and were fully revised and published in October 2017 to include reference to the provisions of the Act.

292. The Children First Inter-Departmental Implementation Group (IDIG), which was established on a statutory footing under the Children First Act, promotes the importance of Children First compliance and a consistent approach across Government. The group includes representatives of all Government Departments as well as the Child and Family Agency – Tusla, the HSE and An Garda Síochána

### **G. Better Outcomes Brighter Futures**

293. First published in 2017, the purpose of ‘An indicator set for Better Outcomes Brighter Futures’ is to track progress for children and young people aged 0–24 across the five national outcomes outlined in ‘Better Outcomes Brighter Future: The national policy framework for children and young people 2014–2020’. To achieve this end, the indicators identify and combine data from a range of sources including administrative survey and census data, which reflects a broad picture of children’s and young people’s lives and serves as an important resource for all of those involved in policy relating to children and young people. In all, the indicator set includes 70 areas with between one and four indicators per area. Work is underway on a methodology report to accompany ‘An indicator set for Better Outcomes Brighter Futures’ and the further disaggregation of data originally included in that report.

### **H. National Strategy for Research and Data on Children’s Lives, 2011–2016**

294. The final implementation report under the National Strategy for Research and Data on Children’s Lives, 2011–2016 was published in 2018. The NSRDCL was a vital and significant development to drive forward research and data developments when it was initiated in 2011, and the implementation of key, ongoing and long-term initiatives and actions will continue to generate robust evidence to inform policy developments in respect of children and young people. The strategy’s legacy is now complemented by a much richer data and research environment both in Ireland and internationally.

## **Article 25**

### **Right to take part in public affairs**

#### **A. Right to vote**

295. For information on the right to vote please see Ireland’s Fourth Periodic report in paragraphs 773–774.

296. During the period covered by this report under the ICCPR, one general election was held in February 2016; elections to the European Parliament were held in May 2014; local government elections were also held in tandem with the European Parliament elections in May 2014; there were four referendums held (two in 2015 and two in 2018), five by-elections to fill vacancies arising in Dáil Éireann (four in 2014 and one in 2015) and one presidential election in October 2018.

#### **(i) Measures taken to overcome factors which impede citizens from exercising their right to vote**

297. For information on measures taken to assist people with disabilities please see Ireland’s fourth periodic (CCPR/C/IRL/4) report in paragraph 780.

298. Regulations made in 2016 and 2018 required ballot paper templates to be made available in order to facilitate voters who are blind or vision impaired to vote independently at polling stations. These templates were used at the two referendums and the Presidential election in 2018, and also in the local and European elections in 2019.

## **B. Right to stand for election and conditions for holding elective public office**

299. The conditions on the right to stand for election and for holding elective office, as set out in the Constitution and under the Electoral Acts, were outlined in detail in Ireland's third periodic report, (CCPR/C/IRL/3), in paragraphs 551–566 (the restriction relating to bankruptcy was repealed in 2014).

300. The Local Government Reform Act 2014 provided for, among other things, a reduction in the number of local authorities and in the number of local authority members. There are 31 local authorities in Ireland comprising 26 county councils, 3 city councils and 2 city and county councils with a total of 949 elected members across all 31 local authorities.

301. The number of members of Dáil Éireann was reduced to 158 for the February 2016 general election. Following the completion of a review of Dáil constituencies in 2017 and having regard to population change as reported in Census 2016, the number of members will increase to 160 at the next general election. A review of European Parliament constituencies was completed in 2018 to provide for the election of 13 members to represent Ireland in the 2019–2024 European Parliament. In addition, a review of local electoral areas was undertaken in 2018 by two independent boundary committees. A number of recommendations were made in respect of local electoral areas having regard to the terms of reference for the reviews; these changes took effect for the local elections scheduled for 2019.

## **C. Migrant Integration Strategy**

302. Theme 8 of the Migrant Integration Strategy, “Political Participation”, focuses on efforts to ensure that the political system becomes more representative of the broader population. At present, migrant representation in politics is very low. This is despite Ireland's relatively progressive position on eligibility to vote and participation in politics, particularly at the local level. There are three actions under this theme, for implementation by political parties and NGOs, as well as the Department of Housing, Planning and Local Government.

## **Article 26 Right to equality before the law**

### **A. LGBTI+ National Youth Strategy 2018–2020**

303. The LGBTI+ National Youth Strategy 2018–2020 was published in June 2018. It is a three-year Strategy that is strongly action oriented with the mission to ensure that all LGBTI+ young people are visible, valued and included. The Strategy and its governance lie within the framework of Better Outcomes, Brighter Futures: The Policy Framework for Children and Young People.

304. A number of significant changes have taken place in Ireland in recent decades which have resulted in substantial progress and improved outcomes for LGBTI+ people. The Strategy seeks to put measures in place to address some of the remaining challenges faced by LGBTI+ young people, so as to ensure that they can achieve the same positive outcomes as all other young people.

### **B. National LGBTI+ Inclusion Strategy**

305. The Department of Justice and Equality is in the process of developing a National Strategy to improve the lives of LGBTI+ persons in Ireland. The overall aim of this strategy

is to promote inclusion, target discrimination and improve quality of life and wellbeing for LGBTI+ people.

306. A series of thematic consultation sessions facilitated by key LGBT experts and researchers to support the development of the Strategy ran from October 2018 to February 2019.

307. The consultation process incorporated regional and thematic workshops. To ensure that the most marginalised voices were heard, specific workshops were held with the Trans/Intersex community, with LGBTI+ Travellers, with LGBTI+ migrants and asylum seekers, and with members of the LGBTI+ Deaf Community.

308. The Strategy will take a whole of Government approach to improving outcomes for LGBTI+ people in Ireland. Accordingly, consultation with other Government Departments has been, and is, a key feature of the strategic development process.

## **Article 27**

### **Ethnic and linguistic minorities**

#### **A. Recognition of Traveller Ethnicity**

309. Responses to the recommendations in paragraph 23 of the concluding observations (CCPR/C/IRL/4).

310. On 1 March 2017, then Taoiseach, Enda Kenny, announced State recognition of Travellers as an ethnic group in Ireland. This recognition of the distinct heritage, culture, and identity of Travellers and of their special place in Irish society was both symbolically and socially important in our work to overcome the economic marginalisation and discrimination of members of the Traveller community.

#### **B. National Traveller and Roma Inclusion Strategy 2017–2021**

311. The Government published the National Traveller and Roma Inclusion Strategy 2017–2021 (NTRIS) in June 2017.

312. The Strategy represents a whole of Government approach to bringing about meaningful change and progress for the Traveller and Roma communities in Ireland. It brings Government Departments and Agencies together along with representatives of both Traveller and Roma communities to focus, in a structured way, on the issues which affect them most. The Minister of State for Equality, Immigration and Integration chairs the quarterly meetings of the NTRIS Steering Group.

313. This Strategy contains 149 actions, grouped under ten themes including Cultural Identity; Education; Employment; Health and Accommodation. It is the responsibility of the respective Government Departments and Agencies to deliver on the Actions contained in the Strategy and to provide updates on this through the Steering Committee.

#### **C. Roma in Ireland**

314. The 2014 Logan Report into the circumstances surrounding the removal of two Roma children from their families identified a range of steps that need to be taken, including detailed issues that need to be addressed within An Garda Síochána and the HSE, Tusla and others, as well as wider issues that relate to how public services generally engage with members of the Roma community. All of these recommendations were accepted unequivocally.

315. One of the recommendations was that an up-to-date assessment of need regarding support provided by the State to the Roma community should be undertaken by a nominated Government Department to establish how best to improve State agencies’



interaction with the Roma Community, to include consultation with relevant State agencies and civil society organisations working with and on behalf of the Roma community.

316. In January 2018, Roma In Ireland – a National Needs Assessment was launched. The Roma community in Ireland comprises between 4,000 and 6,000 people. The majority of Roma adults here are from Romania with the balance from the Czech Republic and Slovakia. Over 60% of Roma children living here were born in Ireland.

317. Roma have access to mainstream public services in Ireland on the same basis as all other EU citizens. However, the research points to barriers that may prevent some Roma from accessing the services to which they are entitled. There is a need for more targeted awareness-raising so that Roma are aware of the documentation needed to access specific services. The Roma community are included in the National Strategy (See paragraphs 310 to 313 on NTRIS).

## **D. Traveller Accommodation**

318. Responses to the recommendations in paragraph 23 of the concluding observations (CCPR/C/IRL/4).

319. The Irish Government provides housing supports to Travellers, in accordance with preferences expressed as part the assessment process for social housing supports. As part of this process, Travellers have the option to express support for Traveller-specific accommodation (e.g. a halting site). Figures for the 2018 Summary of Social Housing Assessments show that 1,295 households (or 1.8%) of the households on the housing waiting list require Traveller-specific accommodation.

320. The majority of Traveller households in receipt of social housing supports live in standard housing, including local authority owned properties, properties owned by Approved Housing Bodies, and tenancies in the private rented sector supported by the Housing Assistance Payment (HAP). The Government, in addition, allocates capital and current funding to the local authorities to support the delivery of housing for Traveller households with a preference for Traveller-specific accommodation.

321. Accommodation for Travellers is provided for in accordance with the Housing (Traveller Accommodation) Act 1998.

### **(i) Expert Group Review**

322. The Expert Group completed their report in July 2019. Consideration will be given to recommendations made in this report to improve the delivery of Traveller accommodation nationally and to ensure that full use is made of the increasing level of funding available for investment in Traveller accommodation.

## **E. Access to Education**

323. A key objective of Traveller education policy in recent years has been the phasing out of segregated Traveller provision. Funding for traveller education has been incorporated into mainstream funding in order to provide supports for Traveller pupils in mainstream schools. However, a number of Traveller-specific supports remain in the system to assist with the transition to the mainstream system.

324. NTRIS includes a number of actions on education. These actions are being progressed by an education sub-committee, in collaboration with the Traveller Representative organisations.

325. In addition, the Delivering Equality of Opportunity in Schools Plan 2017 focuses on improving educational outcomes for disadvantaged students, including Traveller and Roma students. The National Plan for Equity of Access to Higher Education 2015–2019 contains an overall vision to ensure that the student body in higher education reflects the diversity of Ireland's population. A number of interventions under the Access Plan for Equity of Access are to support under-represented groups, including Travellers, in progressing to higher

education. In December 2018 the Progress Review of the National Plan for Equity of Access to Higher Education and the priorities to 2021 was published.

## **F. Traveller and Roma health**

326. The Department of Health provides funding to the HSE to improve the health situation for Traveller and Roma communities.

327. In addition, once-off funding has been made available for a number of initiatives aimed at improving Traveller and Roma health. In 2017, the Mental Health Initiative for Travellers was provided with a sum of €500,000 to develop Traveller mental health initiatives to reduce suicide and improve mental health outcomes for travellers. These initiatives include maintaining and promoting positive mental health and wellbeing and improving Traveller access to mainstream mental health services through the development of culturally appropriate services.

328. Also in 2017, the Roma Primary Healthcare Training Programme received €220,464 in funding to empower Roma leaders to work to improve Roma health outcomes in their communities in response to issues of poor health, lack of trust and lack of access to health services in the Roma community in Ireland. It is anticipated that over a two-year period 20 Roma leaders will be trained as community health workers in the Dublin and Kildare area.

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