



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Information received from Ireland on follow-up to the
concluding observations on its combined fifth to ninth
periodic reports***

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* The present document is being issued without formal editing.



I. Introduction

1. Ireland thanks the United Nations Committee on the Elimination of Racial Discrimination (CERD) for its consideration of the report submitted by Ireland at its 2784th and 2785th meetings, held on 2 and 3 December 2019, during its 100th session. Ireland reminds the Committee of the priority that it attaches to protecting people in Ireland against racism, hate speech and hate crime. It draws the Committee's attention in this regard to its longstanding equality legislation, to the legislation in train to strengthen protections in terms of online safety and against hate crime and hate speech and to the initiatives in train to address racism.

2. In paragraph 56 of its Concluding Observations on the 5th to 9th reports of Ireland (CERD/C/IRL/CO/5-9), the Committee requested follow-up information after one year on the implementation of its recommendations at paragraphs 20 (b) and (c) (racist hate speech), 22 (a) and (e) (racist hate crime), and 44 (legal aid) of the Concluding Observations.

3. This information is supplied below. The information is correct as of 10 February 2022. Paragraph numbers refer to the paragraphs in the Committee's Concluding Observations.

II. Follow-up information

A. Follow-up information relating to paragraph 20 (b) and (c) of the concluding observations (CERD/C/IRL/CO/5-9)

Paragraph 20 (b)

4. Ireland is taking action to strengthen provisions to address hate crime. The General Scheme of the Criminal Justice (Hate Crime) Bill 2021 was published on 16 April 2021. Following its publication, the General Scheme was referred to the relevant parliamentary committee, the Joint Oireachtas Committee on Justice, for pre-legislative scrutiny which took place on 17 November 2021. Drafting of the Bill is underway.

5. The new legislation will create new, aggravated forms of certain existing criminal offences, where those offences are motivated by prejudice against a protected characteristic. An aggravated offence will generally carry an enhanced penalty, compared to the ordinary offence, and the record of any conviction for such an offence would clearly state that the offence was a hate crime. The new legislation will also repeal the Prohibition of Incitement to Hatred Act 1989 in its entirety and provide for new hate speech offences which are more workable in practice.

6. The protected characteristics under the Criminal Justice (Hate Crime) Bill 2021 are: Race; Colour; Nationality; Religion; Ethnic or National Origin; Sexual orientation; Gender; Disability.

7. As part of the work to prepare the proposed new legislation, a comprehensive public consultation was carried out which included a public survey and an opportunity for stakeholders to make formal submissions. The new legislation draws on the conclusions of the report on the public consultation and comparative research on international best practice on hate crime legislation, and will provide the necessary means to prosecute perpetrators who deliberately or recklessly incite hatred against others on the basis of a protected characteristic. In framing the new legislation, the provisions of Ireland's Constitution and our human rights obligations, including the European Convention on Human Rights Act 2003 to protect the right to freedom of expression, have been taken into account.

Paragraph 20 (c)

8. Ireland is taking action to strengthen provisions in terms of online safety. On 12 January 2022, the Irish Government approved the publication of the Online Safety and Media Regulation Bill. The Bill has been introduced into the Houses of the Oireachtas (Irish Parliament) and is beginning the enactment process.

9. The Online Safety and Media Regulation Bill will, among other things, establish a new regulator, a multi-person Media Commission to which an Online Safety Commissioner will be appointed. The Bill will also transpose the revised Audiovisual Media Services Directive into Irish law, including the regulation of video-sharing platform services as part of the regulatory framework for online safety.

10. The Media Commission will replace the Broadcasting Authority of Ireland and be responsible for overseeing updated regulations for broadcasting and video on-demand services and the new regulatory framework for online safety created by the Bill. The Commission will also have roles in relation to the protection of children, research, education, media literacy, journalistic and creative supports. Moreover, in carrying out these roles the Commission will support and promote an open, trusted and pluralistic media and online environment.

B. Follow-up information relating to paragraph 22 (a) and (e) of the concluding observations

Paragraph 22 (a)

11. Legislative provisions to make racist motivation an aggravating circumstance that will lead to enhanced punishment for offenders are advancing as part of the proposed legislation on Hate Speech and Hate Crime referred to above.

Paragraph 22 (e)

12. The Judicial Council is an independent body whose members are all of the judges in Ireland and who constitute a separate and independent branch of Government. The four main pillars of the Judicial Council's remit are to achieve excellence in the performance of judicial functions, high standards of conduct among judges, an independent judiciary, and to achieve public confidence in the judiciary and in the administration of justice. The remit of the Judicial Council also extends to facilitating the continuing education and training of judges.

13. After consultation with the Judicial Council, it has been determined that the Committee's recommendation on providing training to judges on identifying, registering, investigating and prosecuting racist incidents and racist hate crimes cannot be implemented as, under the Irish judicial system, judges do not perform any of these actions. Furthermore, as the Irish judiciary is a fully independent branch of State, the Irish Government does not have the legal mandate to intervene in its functions, including in the provision of training. However, members of the judiciary have taken part in specific workshop training in unconscious bias and in enabling vulnerable witnesses to give their best evidence. Furthermore, on appointment, judges are provided with a bench book entitled 'The Equal Treatment of Persons in Court: Guidance for the Judiciary', which advises judges on the proper conduct when dealing with diverse individuals within the court system. This is an internal document and is not available to the public.

14. Separately, An Garda Síochána (the Irish Police Force, henceforth abbreviated to AGS) does have a role with regard to the training of police. The Garda National Diversity and Integration Unit (GNDIU) has recently developed policy documents outlining the procedures to be followed in responding to hate crime, including guidelines on identifying, reporting, recording, investigating and prosecuting hate crime. These documents are currently awaiting approval at Garda Executive level. In addition, a new training programme is being developed by GNDIU to address training needs in relation to diversity across all levels of AGS. This programme will include modules on Hate Crime training, Diversity and Cultural Awareness training, and 'Leadership in Diversity in Policing' training. The Hate Crime training and the Diversity and Cultural Awareness training modules will be delivered to all members of AGS. The 'Leadership in Diversity in Policing' module is due to be rolled out in Q2 2022 and will be delivered to AGS staff at management level.

15. In October 2020, significant technical changes were made to PULSE, the Garda IT system, which have improved the method used in the recording of hate crime and hate incidents. These improvements were accompanied by the provision of hate crime training to

data inputters, supervisors and data quality teams at the Garda Information Services Centre (GISC) in relation to the initial recording of calls and incidents.

16. Finally, in February 2021, GNDIU also developed modules on Hate Crime and on Diversity / Cultural Awareness for Garda Trainees that now form part of the Garda College Curriculum. Both of these modules are currently being delivered to Garda Trainees at week 9 of a 16 week training programme and form part of the larger Policing in Communities Module.

17. In the Irish judicial system, the Office of the Director of Public Prosecutions (ODPP) receives investigation files from AGS, mainly in relation to serious offences, for a decision on whether the case should be prosecuted or not. ODPP is also responsible for carrying out prosecutions on indictment (jury trial), while most minor offences at the District Court level, the lowest level court of summary jurisdiction in Ireland, are prosecuted by AGS.

18. In conjunction with GNDIU, an ODPP prosecutor participated in 2020 in a workshop hosted by the EU Fundamental Rights Agency (FRA) and the Office of Democratic Institutions and Human Rights (ODIHR) on reporting, investigating, recording and prosecution of hate crime. In 2020–2021, the ODPP has been part of the Reference Group for the development, piloting and finalisation of online learning for the Garda Síochána on hate crime recording, investigation and prosecution mentioned above. It is anticipated that some training on the course will also be organised for ODPP staff.

19. The ODPP Legal Training Steering Committee and Training Unit have identified the area of hate crime and anti-racism training as an upcoming priority and training focus, particularly in the context of the current reform to laws on hate crime and hate speech. The ODPP Training Unit also promotes the Council of Europe Human Rights Education for Legal Professionals online courses (HELP) to ODPP staff, which include modules on hate crime, racism and xenophobia and anti-discrimination. In addition, a recently developed ODPP Knowledge Management online legal portal includes a hate crime topic collection that will be further developed and promotes the capture and sharing of knowledge in this area.

C. Follow-up information relating to paragraph 44 (legal aid) of the concluding observations

20. The Legal Aid Board is an independent, publicly funded statutory body responsible for the provision of civil legal aid and advice, family mediation and vulnerable witness related services. The Legal Aid Board's recently adopted Statement of Strategy commits the Board to improving the level of awareness of its services and also to addressing how it can meet the needs of persons and / or communities who may be marginalised or in danger of marginalisation. The Legal Aid Board is at the moment working with Free Legal Advice Centres (FLAC) to explore how it can better support Travellers to vindicate their rights. As part of this, a solicitor has recently been seconded to a dedicated centre which will provide legal services to the Traveller Community. Additionally, staff training will be provided with the assistance of Traveller advocates and representatives, with input from FLAC.

21. It remains the case that the Social Welfare Appeals Office and the Workplace Relations Commission are not prescribed under Civil Legal Aid Act 1995 and thus the Legal Aid Board is unable to provide legal representation before those bodies. However, the Minister for Justice and her Department have now committed to a significant review of the civil legal aid scheme and it is anticipated that the issue of representation before the Social Welfare Appeals Office and the Workplace Relations Commission will be included in the scope of this review.

D. Other relevant updates from the State Party

National Anti-Racism Committee

22. The National Anti-Racism Committee is an independent Committee established by the Irish Government in 2020 to draw up a National Action Plan Against Racism (NAPAR) for Ireland. The work of this Committee will help to strengthen the Government's approach

to combatting individual and institutional racism and will build on the anti-racism actions included in the Migrant Integration Strategy and the National Traveller and Roma Inclusion Strategy. The Committee is examining international best practice in combatting racism and benchmarking its actions against these standards.

23. The Committee has completed a public consultation, during which it consulted with stakeholder organisations and members of the public so that everyone affected by racism could be included in the discussion on how best to tackle it. These consultations were divided into a number of thematic discussions: Access to Justice; All Forms of Media and Communications, including New Technologies; Employment, Education, Health and Accommodation; Inclusion and Participation.

24. Written submissions were also received and these have been reviewed, with the Committee currently developing content for the National Action Plan against Racism. The Committee has examined the role of hate crime legislation in the reduction of racially motivated crime and may make further recommendations on this subject when the National Action Plan Against Racism is published in 2022.

A White Paper to End Direct Provision and to Establish a New International Protection Support Service

25. On 26 February 2021, the Irish Government published A White Paper to End Direct Provision and to Establish a New International Protection Support Service. This White Paper commits to the ending of Ireland's current system of supports and accommodation for international protection applicants, which is commonly known as Direct Provision, and its replacement with an alternative reception model by December 2024.

26. This new model is based on a two-phase approach, whereby applicants will be accommodated for four months in a Reception and Integration Centre where they will receive information on life in Ireland before being offered accommodation within local communities across the country. Applicants will be helped to integrate into Irish society from the day their application is registered and they will be enabled to live an independent life.

27. The accommodation offered to applicants will be either own-door, self-contained houses or apartments, which will be primarily offered to families, or housing with shared living and kitchen spaces, but with private single occupancy bedrooms for single applicants. In order to support independent living, applicants will be provided with income support payments, including child support payments. All accommodation units will be managed by independent not-for-profit organisations operating on behalf of the State.

Traveller Accommodation

28. Ireland recognises the importance of enabling members of the Traveller community to have access to suitable culturally appropriate accommodation. It wishes to inform the Committee that progress has been made on ensuring that the funding allocated to local authorities for Traveller accommodation is being spent for that purpose. The full Traveller-specific accommodation budget for 2020 of €14.5 million was utilised, with a particular emphasis on measures which helped to minimise the spread of Covid-19. The 2021 budget of €15.5m has also been fully spent.

29. It is important to note that accommodation for Traveller households is provided across a range of housing options and not just from the Traveller specific accommodation budget. Accordingly, funding available for, and spent on, the provision of accommodation solutions for Travellers is much broader than the expenditure under the Traveller Specific Accommodation budget.

30. The Irish Government's housing plan to the year 2030, known as 'Housing for All - a New Housing Plan for Ireland', was published in September 2021 and includes commitments to improve the quality and quantity of Traveller-specific accommodation. This includes measures such as a Traveller-specific new build pipeline, which is being developed by local authorities and approved housing bodies. The plan also commits to continued support for social inclusion through the Capital Assistance Scheme (CAS) and other social housing support programmes.

Review of Equality Legislation

31. The Department of Children, Equality, Disability, Integration and Youth is currently conducting a review of the Equality Acts (Equal Status Acts 2000–2018 and the Employment Equality Acts 1998–2015).

32. The review will examine the functioning of the Acts and their effectiveness in combatting discrimination and promoting equality. It will also include a review of current definitions, including in relation to disability, and will consider the introduction of a socio-economic ground for discrimination and consideration of the protections for gender identity under the Acts.

33. The review will examine the operation of the Acts from the perspective of the person taking a claim under its redress mechanisms. It will examine the degree to which those experiencing discrimination are aware of the legislation and whether there are practical or other obstacles which preclude or deter them from taking an action.

34. The review also provides an opportunity to review other issues arising, including whether or not further additional equality grounds should be added, whether existing exemptions should be removed or modified and whether or not the existing legislation adequately addresses issues of intersectionality.

35. The Irish Government will draw on the findings of this consultation both to inform the areas of consideration in the legislation as part of the review and to inform recommendations arising from the review. The recommendations arising from the review may take the form of recommendations for legislative changes, recommendations for policy development or recommendations for changes to the practical operation of the redress mechanisms. A public consultation process as part of the review is currently underway.

Mother and Baby Homes Commission

36. In establishing the independent statutory Commission of Investigation into Mother and Baby Homes and certain related Matters in February 2015, the State party sought to ensure a thorough, effective and timely investigation into what happened to vulnerable women and children in Mother and Baby and County Home Institutions during the period 1922 to 1998, including concerns related to systematic discrimination within these institutions.

37. Following publication of the Final Report of the Commission of Investigation into Mother and Baby Homes on 12 January 2021, An Taoiseach offered a formal apology on behalf of the Government, the State and its citizens to all those who spent time in the institutions. The apology acknowledged the failings of the State, over many decades, to protect vulnerable citizens, and to uphold their fundamental rights. In responding to the Commission's findings on discrimination, the State apology specifically acknowledged the additional impact which a lack of knowledge and understanding had on the treatment and outcomes of mothers and children with different racial and cultural heritage, those who faced mental health challenges, or those with physical and intellectual disabilities. The State recognises that such discriminatory attitudes exacerbated the shame and stigma felt by some of its most vulnerable citizens, especially where opportunities for non-institutional placement of children were restricted by an unjust belief that they were unsuitable for placement with families.

38. On 16 November 2021, the Irish Government published an Action Plan for Survivors and Former Residents of Mother and Baby and County Homes, including proposals for a Mother and Baby Institutions Payment Scheme which will provide eligible survivors with a financial payment and access to an enhanced medical card.

39. The Irish Government is conscious of the need to move swiftly to implement its response to the failings identified by the independent investigation and significant progress has already been made in advancing these actions. The interim and final reports of the Commission have been published and made available to the relevant civil authorities to decide if a criminal investigation and/or prosecutions are warranted. An Garda Síochána, the Irish police force, has appealed to anyone with additional information about potential crimes

at Mother and Baby Institutions to make contact with them so that such criminal matters can be investigated where possible.

40. The Irish State is deeply committed to responding to the needs and concerns of those who spent time in Mother and Baby and County Home Institutions. This is with a view to recognising the failings of the past, providing survivor-centred supports, offering opportunities for reconciliation and healing, rebuilding trust, and, at the broadest level, promoting the development of a progressive, respectful and equal society. The State is aware of the urgency of this work which is an absolute priority for the Government.
