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Universal Periodic Review

Written submission by the Irish Human Rights and Equality Commission*

Note by the Secretariat

The Secretariat of the Human Rights Council hereby transmits the communication submitted by the Irish Human Rights and Equality Commission**, reproduced below in accordance with rule 7(b) of the rules of procedures described in the annex to Council resolution 5/1, according to which participation of national human rights institutions is to be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005.

* National human rights institution with “A”-status accreditation from the Global Alliance of National Institutions for the Promotion and Protection of Human Rights.

** Reproduced in the annex as received, in the language of submission only.

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Annex

[English only]

Submission by the Irish Human Rights and Equality Commission

Adoption of the Report of the Working Group on the Universal Periodic Review for Ireland

The Commission wishes to thank the Human Rights Council for the opportunity to make this statement to the Council on the occasion of the adoption by the Council of its report on Ireland under the Universal Periodic Review. The Commission appreciates the courtesy shown to us by the Council and the member states that participated in the UPR. We also welcome the attention that the Council has afforded to the information that was provided to it by Irish civil society for its deliberations. The Commission believes that the Universal Periodic Review is an important process in helping to secure the realisation of all human rights. The UPR process provides a valuable opportunity for the full set of human rights to be considered, and for both the State and all of the other actors to engage in fruitful dialogue on the progress that has been achieved and on the areas of concern that remain. The UPR has been the subject of extensive discussion within the Irish state, between the Government, the national human rights institution and other statutory bodies charged with defending and promoting the rights set out in the international human rights instruments and the norms developed under them. It has also provided a very useful opportunity for discussion in the media of how well Ireland is doing and the challenges that remain.

Progress since Last Universal Periodic Review

The Commission welcomes the progress that Ireland has made since it last engaged with the Human Rights Council in the Universal Periodic Review in 2011. Since 2011, a referendum to amend the Constitution was passed to strengthen the rights of the child, which the Commission welcomes. A significant and welcome development since the last UPR was the referendum held on 22 May 2015, when the Irish people voted to amend the Constitution to provide that marriage may be contracted by two people without distinction to their sex.

Constitution of Ireland

The commitment of the Irish Government to holding a referendum to amend article 41.2.1 of the Constitution of Ireland, which perpetuates stereotypical attitudes towards women in Irish society, is welcomed, as is the commitment to hold a referendum to amend the Constitution to remove the offence of blasphemy. The Commission regrets that the Government has not accepted the recommendation that the equality guarantee in Article 40 of the Constitution be reviewed.

International Obligations

CRPD and OP-CRPD

The Commission welcomes the commitment by the Irish Government to ratify the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol (OP-CRPD). A 'roadmap' for the ratification of the CRPD has been published by

the Government. A significant step which the Government identified needed to be taken before ratification was reform of legislation on assisted decision making for those who have an intellectual or cognitive impairment. The Commission welcomes the fact that this legislation has been passed by the Irish parliament, although it still awaits the commencement orders that will permit it to be implemented. The Commission encourages the Government to continue to ensure that all of the actions in the roadmap are implemented by the target deadlines. Ireland signed the CRPD in 2007, and is the last remaining EU member state that has yet to ratify the Convention.

Istanbul Convention

The Commission notes the commitment to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (the ‘Istanbul Convention’) and the publication of an action plan on the steps that are to be taken for ratification. While the Commission welcomes the commitment to ratify the Istanbul Convention, it is concerned at the length of time between signature and ratification. The Commission urges the Government to proceed speedily to reform the legislation and ensure the policy and practice reflects the standards that the State is committed to respecting in this regard.

OPCAT

The Commission welcomes the commitment by Ireland to ratifying the Optional Protocol to the Convention against Torture (OPCAT). The Commission urges the State to now prioritise the enactment, commencement and operationalisation of the legislation that is needed in respect of the national preventive mechanism provided for under that optional protocol.

OP-ICESCR

The Commission notes Ireland has only partly accepted the recommendation to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) and asks for information on the steps that are being taken to identify how this will be achieved.

National Action Plans, Policies and Measures

National action plan on human rights

The Commission regrets that the Government has only partly accepted the recommendations that it adopt a national action plan on human rights. The Commission notes that in response to the recommendations on this, the Government reports that work on ‘sectoral issues’ is underway. The Commission recommends that a national action plan on human rights and equality should be advanced.

Prison conditions

The acceptance by the State of the recommendation concerning prison conditions, the separation of different types of prisoners, and overcrowding is welcomed. The Commission has called for the prioritisation of legislative reform around non-custodial sanctions to accelerate a reduction in overcrowding and improvements in prison conditions.

Recognition of Traveller ethnicity

The Commission notes the Irish Government’s acceptance of the recommendation to conduct a review of the request for recognition of the Travellers as an ethnic group. It is

regrettable, however, that this important issue has not been progressed since Ireland's first Universal Periodic Review in 2011, despite the Government's commitment to give serious consideration to the matter at that time. The Commission re-emphasises its recommendation that, as a matter of priority, Travellers should be recognised as an ethnic minority.

Treatment of those seeking protection

The Commission notes the partial acceptance of a number of recommendations concerning the protection of refugees and asylum seekers. The Commission notes the commitment to reforming the direct provision system, with particular focus on families and children. The Commission has recommended that the recommendations of the Working Group Report on the Protection Process including Direct Provision be advanced as a matter of priority.

Human trafficking

In relation to victims of trafficking, the Commission notes the State's commitment to carrying out a fundamental review of the formal identification mechanism in order to put in place a process which meets best international practice. In a case concerning the protection of an alleged victim of human trafficking, the legislative framework was found to be inadequate by the Irish High Court under EU law for the identification of all potential victims of trafficking. As outlined in the Commission's amicus curiae submission to the Court in this case, obstacles remain to securing an identification mechanism in Ireland which meets best international standards and the Commission continues to be concerned at the delays seen in concluding this review and operationalising the changes required.

Racial discrimination

The Commission notes and welcomes the acceptance by the Irish state of several recommendations relating to protection against racial discrimination, outlining a number of significant related actions. The Commission reiterates its recommendations around the creation of a robust mechanism to monitor incidents of racism, the renewal of the National Action Plan Against Racism and revision of the existing legal framework on racially motivated crime in order to ensure an effective law capable of deterring and prosecuting racially motivated offences.

Reproductive health

The Commission remains concerned that the current legal position in relation to abortion puts in place barriers which impede a woman's right to bodily autonomy and have a disproportionate negative impact on women from lower socio-economic backgrounds and women who are seeking asylum or migrant women where their immigration status prevents them from travelling. The Commission endorses recommendations by various UN Treaty Monitoring Committees that the State take all necessary measures to revise its legal framework on abortion to ensure that it is in line with international human rights law.

Mental health

The Commission has urged the Government to prioritise the further advancement of the availability of community-based mental health services, as well as the amendment of the Mental Health Act 2001, in particular to ensure that there is adequate oversight of community-based services by the Mental Health Commission and to ensure that all individuals under the age of 18 years should be placed in age-appropriate facilities.

Conclusion

The Commission welcomes the commitments that the Government has made in respect of the recommendations it has accepted. The Commission requests the Government provide comprehensive information on how it plans to implement the recommendations, and information on how civil society will participate in this process.
