

Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women

Overview of Issues and Recommendations

January 2017



**Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas**
Irish Human Rights and Equality Commission

This document is an overview of the issues and recommendations set out in *Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women*, the Irish Human Rights and Equality Commission's submission to the Committee on the Elimination of Discrimination Against Women on Ireland's combined sixth and seventh periodic reports. The full report is available at: www.ihrec.ie

First published in January 2017
by Irish Human Rights and Equality Commission
16–22 Green Street, Dublin 7, D07 CR20.

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The Irish Human Rights and Equality Commission (IHREC) was established under statute on 1 November 2014 to protect and promote human rights and equality in Ireland, to promote a culture of respect for human rights, equality and intercultural understanding, to promote understanding and awareness of the importance of human rights and equality, and to work towards the elimination of human rights abuses and discrimination.

ISBN 978-0-9957296-3-6

Overview of Issues and Recommendations

The Irish Human Rights and Equality Commission ('the Commission') welcomes the opportunity to provide this report to the United Nations Committee on the Elimination of Discrimination against Women ('the Committee') in advance of its forthcoming examination of Ireland's compliance with the United Nations Convention on the Elimination of All Forms of Discrimination against Women ('the Convention').

The Commission engages in the CEDAW process in its dual capacity as Ireland's 'A-status' National Human Rights Institution (NHRI) and as Ireland's National Equality Body and in the context of its previous submission to the Committee in October 2015 under the List of Issues Prior to Reporting Procedure. Following that engagement, the Commission conducted an extensive nationwide consultation on the implementation of the Convention, including: focus groups with marginalised groups of women; research visits to women living in detention facilities; and research visits to women seeking asylum and women refugees who are living in direct provision centres. The information gathered during the Commission's CEDAW consultation has been used to inform and enrich its analysis, and direct reference has been made to the voices of women who engaged with the Commission throughout the report. In this overview, the Commission summarises the issues and recommendations contained in the report.

The Commission would like to draw the Committee's particular attention to a number of thematic areas where the Committee may wish to focus its attention during the State's examination, and during the subsequent follow-up period.

The reporting period has seen significant shifts in the political, economic and social landscape in Ireland. Women, especially women from already marginalised groups (section 13), have been particularly susceptible to entrenched poverty, social exclusion and gender-based violence (sections 6, 10, 11, 12, 13).

The Commission views it as a priority for the State to take action to reverse any negative impacts on women's economic and social rights in particular those exacerbated by austerity measures. Connected to the overarching issue of poverty and social exclusion, the Commission would also like to draw the Committee's attention to issues affecting specific groups of women. In particular, the Commission is of the view that the State should address as a matter of priority the need for reform in the system of direct provision, recognition of Traveller ethnicity, ratification and gender-sensitive implementation of the Convention on the Rights of Persons with Disabilities, and the gender-sensitive reform of penal policy towards women.

In the area of access to reproductive health services (section 12), 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 has a disproportionate negative impact on certain groups of women. The Commission endorses recent recommendations by UN treaty monitoring bodies that the State revise its legislation on abortion in line with international human rights standards.¹

¹ This is the majority view of the Irish Human Rights and Equality Commission.

The Commission emphasises the continued failure of the State to meet its international human rights obligations to provide access to justice (section 3) for women who were institutionalised in the Magdalene laundries, or subject to the practice of symphysiotomy in Irish maternity hospitals. The Commission is also concerned about the limited scope of the State's investigation of mother and baby homes.

1. General Observations on the Implementation of CEDAW

While the State has asserted that it does not intend to alter the dualist nature of the Irish legal order, which prevents the automatic incorporation of the Convention into domestic law, the Commission is of the view that the State should take steps to incorporate the Convention. Given the State's policy of keeping reservations to international treaties under review, the Commission considers that in light of the enactment of the *Children and Family Relationships Act 2015*, the State should remove its reservations in relation to Articles 11(1), 13(a) and 16(1)(d) and 16(1)(f) of the Convention.

The Commission recognises that CEDAW forms an important part of Ireland's international human rights and equality law obligations. Bearing this in mind the Commission recommends that the State develop structures both at Governmental and parliamentary level to ensure that the recommendations of the UN treaty monitoring bodies are implemented in full. The Commission also expresses the view that in order for the State's international human rights obligations to be implemented in full, improvements need to be made to data collection systems, particularly in relation to the disaggregation of data, and the training of public officials, including members of the judiciary, on women's rights and gender equality.

The Commission also observes that the gaps in the State's ratification of international treaties must be addressed particularly in relation to treaties which have particular relevance for women's rights, including the Council of Europe's Istanbul Convention, the UN Convention on the Rights of Persons with Disabilities and the UN International Convention on the Protection of the Rights of Migrant Workers.

2. Legal Framework on Gender Equality (Article 2)

During its consultation process, the Commission was frequently reminded that the constitutional and legislative framework must be responsive to cultural and societal changes in order to fully protect gender equality and women's rights. In particular, the Commission is of the view that the Constitution of Ireland should be amended to include an explicit provision on gender equality and reviewed to ensure that gender neutral language is used throughout the text. The Commission also recommends that equality law be amended to include a definition of multiple discrimination and provide for socio-economic status as a ground of discrimination.

The Commission is also of the view that the State must provide appropriate and effective remedies that are accessible to all women. Having analysed the range of available remedies at common law and in statute in cases of relevance to gender equality, the Commission is of the view that there is room for improvement in the State's legal framework. For instance, the Commission recommends that the equality legislation be amended to allow for its use in the challenge of other potentially discriminatory laws and to remove the current limitations on the level of compensation that may be awarded to claimants.

The Commission also recommends that human rights legislation be amended to ensure that court findings are implemented in a timely manner by the legislature – in the *Foy* case, for example, the relevant legislation, the *Gender Recognition Act 2015*, was enacted over a decade after the High Court declared the legal framework to be incompatible with the European Convention on Human Rights.

The Commission also reiterates the views set out in its submissions to the Council of Europe's Committee of Ministers and recommends that the State review its narrow interpretation of the judgment in *O'Keeffe v Ireland* to ensure that all victims of sexual abuse have the right to an effective remedy irrespective of whether or not there was a prior complaint of abuse.

The Commission considers that barriers to effective remedies jeopardise the vindication of individual rights and in particular considers that economic means should not pose a barrier. The Commission therefore considers that the State's civil legal aid scheme should be reformed. The Commission recommends that the minimum contribution fee and waiver scheme be reviewed, particularly with respect to domestic violence cases. The Commission also considers that the Legal Aid Board's guidelines on the provision of assistance to persons with an intellectual disability be placed on a statutory footing.

3. Access to Justice in Relation to Historical Abuse (Articles 2(c), 3, 5(a) and 15)

The experiences of women in Magdalene laundries, in mother and baby homes, and who were subject to the practice of symphysiotomy were raised throughout the Commission's consultation process. The Commission is of the view that these abuses of women's rights must be fully investigated by the State in line with international human rights standards. In particular, the Commission is concerned about the lack of an independent investigation into symphysiotomy and the abuses suffered by women in Magdalene Laundries. The Commission also maintains its view that the scope of the Commission of Investigation into Mother and Baby Homes ought to be widened. Following the conclusion of these investigations, the State should conduct any relevant criminal prosecutions.

The Commission is also of the view that the State must provide redress to all women who suffered abuses of their rights as a result of symphysiotomy or within Magdalene laundries or in mother and baby homes. This would also require full implementation of the *Redress for Women Resident in Certain Institutions Act 2015* and the *Assisted Decision-Making (Capacity) Act 2015*.

4. National Machinery for the Advancement of Women (Article 3)

No single institution in Ireland fulfils the role of national machinery as envisioned by the Committee. Regretting the closure of several key agencies which had played a part in this framework, the Commission notes the role of the Gender Equality Division of the Department of Justice and Equality, and its monitoring of national and international commitments in this respect. Of particular relevance is the forthcoming National Women's Strategy 2017–2020. The Commission recommends that in order to inform the design of this, the impact of the National Women's Strategy 2007–2016 ought to be reviewed and the new strategy should be results-oriented with indicators, benchmarks, timelines, with mechanisms for monitoring and implementing the policies therein.

The Commission also considers that the Public Sector Duty, as provided for in Section 42 of the *Irish Human Rights and Equality Act 2014*, should underpin the National Women's Strategy 2017–2020. Since the Public Sector Duty requires public bodies to eliminate discrimination, promote equality and protect human rights in the performance of their functions, the Commission is of the view that the duty has the potential to become a powerful mechanism for the advancement of women.

Acknowledging the evidence of heightened economic vulnerability of women as a result of austerity, the Commission considers that gender proofing of budgetary and policy-making processes is an essential part of the State's institutional framework for human rights and equality. To achieve this, the Commission recommends, in line with the views expressed during its consultation process, the establishment of a national budget proofing committee, along with the review and strengthening of regulatory impact assessments, social impact assessments and poverty impact assessments as committed to in *A Programme for a Partnership Government*. The Commission is also of the view that the forthcoming national action plan on business and human rights should ensure that human rights and equality considerations are fully taken into account in public procurement practices.

5. Stereotyping (Article 5)

During the Commission's consultation process women and girls frequently expressed the view that stereotyping, traditional gender roles and prejudice impacted adversely on their lives. The Commission was also informed that such negative experiences are exacerbated in the case of marginalised groups of women. Evidence of such stereotyping is found in Article 41.2 of the Constitution of Ireland, which presumes that women occupy primary carer roles within the home. Citing political commitment to address this, the Commission urges the Government to publish a timeline with respect to the holding of a referendum on the removal or amendment of this provision.

The Commission is of the view that active and ongoing educational and awareness-raising measures are required to address gender stereotyping and considers that such measures could be delivered via the forthcoming National Women's Strategy 2017–2020 to both public servants and the general public. Initiatives should make reference to clear timelines and monitoring mechanisms, as well as take into account the multiple discriminations faced by many marginalised groups of women. Recalling the Committee's General Recommendation No. 33 on access to justice, the Commission also recommends that the Legal Services Regulatory Authority and the Minister for Justice and Equality consider developing an action plan to address stereotyping in the justice system.

To address the broader phenomenon of sexism and stereotyping in the media and advertising, increased regulation of the sector and the creation of positive duties to project better representations of women and gender equality may be beneficial. The Commission recommends that the State consider introducing statutory guidelines on gender equality for advertising and the marketing industry. The Commission recommends that research be carried out to assess the portrayal of women in Irish media.

6. Gender-Based Violence (Articles 2, 5, 11, 12 and 16)

While there have been considerable legal, policy and institutional developments during the reporting period, particularly the publication of the Second National Strategy on Domestic, Sexual and Gender-Based Violence 2016–2021, gaps in the State's response to gender-based violence were highlighted to the Commission during its consultation process. These gaps include: a lack of up-to-date research on the prevalence of sexual and domestic

violence; deficiencies in the legal framework on domestic violence and hate crime; and administrative barriers which present obstacles for victims of domestic violence seeking emergency and longer-term accommodation.

Legal developments

Recalling its recommendations in relation to the overarching legal framework on gender equality, the Commission is of the view that legislation must reflect the reality of experience of gender-based violence. In that regard the Commission welcomes the enactment of the *Criminal Justice (Female Genital Mutilation) Act 2012*, but recommends that policy measures, such as an action plan, are required to protect women and girls' rights. Forthcoming legislative proposals and reviews of existing legislation also provide opportunities to strengthen Ireland's legal framework.

The Commission recommends that the Government ratify the Council of Europe's Istanbul Convention without delay and publish the *Criminal Justice (Victims of Crime) Bill* and the *Domestic Violence Bill* as a matter of priority. The Commission recommends that the *Domestic Violence Bill* should include: clear definitions of gender-based violence; the criminalisation of psychological and emotional harm; and provisions on emergency barring orders to ensure persons are never without access to protection. The Commission recommends that domestic violence laws be amended to extend protection to those in intimate relationships who are not cohabiting. The Commission also recommends that the proposals to reform the law on harassment set out in the Law Reform Commission's 2016 *Report on Harmful Communications and Digital Safety* be taken into account in the development of a legal response to the issue of cyber harassment and abuse.

During its consultation process, concerns were expressed to the Commission about gaps in immigration law which do not adequately protect migrant women who are victims of domestic violence. In order to strengthen Ireland's immigration law in this regard, the Commission recommends that Ireland opt-in to the EU Directive on Family Reunification and introduce implementing legislation which provides for autonomous residence permits. The protection of undocumented women from violence should also be considered as a priority in immigration reform.

The Commission is concerned by reports during its consultation process of the prevalence of hate crime faced by particular groups of women on account of their race, religious belief or gender identity. Given that hate crime targeting minorities can act in an intersectional way with the discrimination and violence already suffered by women, reform of law, policy and practice is required.

Accommodation for victims of domestic violence

During its consultation process the Commission became acutely aware of the debilitating effect of austerity cuts on services for victims of domestic violence. The Commission is concerned these cuts coupled with demand for services have created barriers to accessing emergency accommodation, particularly for rural women, women with addiction, migrant women, and Traveller and Roma women.

In conversation with service providers at regional consultation events, the Commission became acutely aware of the impact of the housing crisis in Ireland on the accessibility of emergency and longer-term accommodation for victims of domestic violence. In particular,

the Commission was informed that victims of domestic violence are spending more time in emergency accommodation due to the rising cost of private rented accommodation and the failure of social housing law and policy to provide an appropriate response for victims of domestic violence. The Commission recommends that section 2 of the *Housing Act 1988* be amended to instruct housing authorities to prioritise applications from victims of domestic violence and disregard any conditions pertaining to local connection or residence. The Commission further recommends that regulations under the *Housing Acts 1966–2009* be amended to the effect that 'alternative accommodation' for the purposes of a housing need assessment excludes accommodation that is unsafe because of the risk of domestic violence.

7. Trafficking and Exploitation of Prostitution (Article 6)

While the publication of the *Second National Action Plan to Prevent and Combat Human Trafficking* is to be welcomed, the Commission remains concerned that gaps exist in the legal framework, specifically pertaining to identification and non-punishment of victims as well as legal support and remedies. The Commission recommends that statutory rights to assistance, including legal aid, protection and compensation, should be available to all potential victims of trafficking regardless of their nationality or immigration status. The procedure for the identification of victims should also be placed on a statutory footing, and fair procedures must be guaranteed throughout the process. Further, the Commission is of the opinion that accommodation of victims of human trafficking in direct provision centres does not comply with the Convention. The Commission recommends that victims of human trafficking be accommodated in appropriate single-gender facilities with access to the necessary services and supports. This approach echoes recommendations made by civil society organisations working with victims of human trafficking to the Commission during its CEDAW consultation.

The Commission notes that both research and civil society submissions received during its consultation process indicate that there is no consensus on the best model for addressing trafficking in human beings for sexual exploitation. At the time of writing, legislation criminalising the purchase of sex and creating a separate offence of making a payment for the prostitution of a trafficked person was progressing through parliament. The Commission recommends that if this proposal, set out in section 20 of the *Criminal Law (Sexual Offences) Bill 2015*, is to be enacted, it should be accompanied by comprehensive support and awareness strategies, including a sufficiently resourced exit strategy and its implementation in practice should be monitored closely, measuring effectiveness in discouraging demand, in the provision of protection and assistance to victims, and in the prosecution of traffickers.

8. Participation in Public Life, Civil Society and Sport (Articles 4, 7, 8 and 13)

Participation in public life (Article 7(a))

While there has been an increase in women's representation in parliament, in local government, in the judiciary, in the diplomatic service and on public boards, the Commission considers that further action is required to ensure that women's participation in public life is in line with the European average.

With respect to participation in politics, the Commission is of the view that the positive impact of gender quotas on candidate selection required by the *Electoral (Amendment)*

Political Funding Act 2012 should be replicated at local government level. During its regional consultation events, the Commission was alerted to the fact that there are notable geographical differences with respect to women's candidacy and election which has manifested in an urban–rural divide. Training and mentoring initiatives are required to address both the under-representation of women in non-urban areas and the low participation of minority women such as members of migrant and Traveller communities. The Commission also recommends that the State should monitor political party gender recruitment practices including female party membership rates, the level of female party office-holders, party investment and expenditure on the promotion of women, and the implementation of gender quotas during candidate selection.

As women's participation on public boards grows, the Commission believes that its own statute-based requirement of equal gender balance is exemplary of best practice and should be replicated across all State boards.

Participation in civil society (Article 7(c))

Recalling its parallel report to the Committee on Economic, Social and Cultural Rights in 2015, the Commission reiterates its concerns about the impact of funding cuts and structural changes to local government and community development on civil society, noting the negative impact on the women's sector specifically. In line with the previous community development programme, the Commission recommends that 'disadvantaged women' should be included as a target group in the Social Inclusion and Community Activation Programme. The Commission also recommends that the guidelines for the establishment of Local Community Development Committees be amended to include a requirement of gender balance in the membership of the Committees.

Participation in sport (Article 13(c))

During its consultation process, it was frequently highlighted to the Commission that women in Ireland do not enjoy equal treatment in sport. State funding practices, a lack of female representation in sports governance, and poor representation by the media of women in sport were cited as the key barriers to gender equality in sport. The Commission is therefore of the opinion that the State's sports investment practices require review in order to ensure that funding is allocated in a manner that promotes equal participation. As with political and governmental decision-making, national sports governing bodies could also benefit from increased female participation, and thus the Commission recommends that those in receipt of State funding should be required to have gender balance on their boards. The Commission also recommends that an action plan be developed to ensure a more equal representation of women's sport in the media.

9. Women, Peace, Security and International Protection (Articles 1-3, 5(a) and 15)

Northern Ireland

Women's participation in the protection and promotion of human rights and equality is essential to the success of the peace process in Northern Ireland. The Commission welcomes the publication of the inquiry, supported by the Department of Foreign Affairs and Trade, into the low levels of women's participation in the post-conflict situation and the implementation of the actions proposed.

Law and policy framework on international protection

During its consultation process, civil society organisations working with refugee women and women seeking asylum expressed concerns about the lack of gender-sensitive practices and procedures in Ireland's international protection framework, citing the use of male interpreters for female applications as an example. Recalling General Recommendation No. 33 on access to justice, the Commission is of the view that gender equality must be respected throughout the protection process. Therefore, the Commission recommends that the *International Protection Act 2015* be amended to allow for statutory guidelines to be developed on gender-sensitive approaches to credibility assessment in asylum claims. The Commission is also of the view that safe and legal routes of migration should be established in order to protect women from human trafficking and exploitation.

10. Education (Article 10)

The Commission is of the view that participation in formal education is integral to the advancement of gender equality and in that regard considers it necessary that the State introduce reforms to ensure that gender equality is fully respected within the Irish education system.

Meeting with school-age girls during its consultation process, the Commission was informed that gender stereotyping remains an issue in schools, particularly with respect to subject choice. In order to address this, the Commission recommends that the Department of Education and Skills provide guidance to schools on respecting gender equality in the subject choice process. During the Commission's CEDAW consultation, school-age girls also expressed concerns about the lack of adequate sexual and reproductive health education in schools. In order to address this, the Commission recommends that the new Junior Cycle subject in Social, Personal and Health Education (SPHE) be made compulsory and that teachers are trained to ensure that they are adequately equipped to deliver the curriculum. Recognising also that pregnant students face barriers in continuing education, the Commission recommends that the Department of Education and Skills, in conjunction with the Department of Children and Youth Affairs, develop a policy to support pregnant students to remain in education.

School admission policies also present barriers in relation to access to education, particularly for Traveller, Roma and migrant girls. Therefore, the Commission recommends that the *Equal Status Acts 2000–2015* be amended to prohibit the use of a connection with a former student of the school as a criterion in the admission of a child and to ensure that no child should be given preferential access to a publicly funded school on the basis of their religion.

During its consultation process, the Commission was also informed of the issues faced by women in third-level education. These include barriers to access for migrant women and low levels of women in senior leadership positions in third level institutions in the State. The Commission notes that a fee waiver scheme, called the Pilot Support Scheme, was introduced in recognition of the barriers faced by asylum-seekers and refugees living in direct provision. The Commission recommends that the State consider implementing a policy akin to this to facilitate undocumented persons' access to third-level education. However, the Commission recommends that the Pilot Support Scheme be altered to remove the requirement of five years spent in the Irish education system. In order to address gender imbalance in leadership in higher education, the Commission recommends that the State implement the recommendations set out in the Higher Education Authority's Gender Equality Review, in consultation with relevant stakeholders.

11. Employment and Social and Economic Life (Articles 11 and 13)

Employment

Respondents to the Commission's survey, which formed part of its consultation process, expressed concerns about the 14 per cent gender pay gap. The Commission is also concerned about the prevalence of women in low paid jobs as well as the use of employment contracts with unspecified hours of work or 'zero hour contracts'. The Commission recommends that the Minister for Jobs, Enterprise and Innovation give due consideration to the *Report of the Low Pay Commission on the Preponderance of Women on the National Minimum Wage*.

The Commission notes that following the economic recession, pregnancy-related discrimination increased despite being legally prohibited. During its consultation process, the Commission was also informed about discrimination faced by particular groups of women, including women with disabilities, Traveller women and trans women. To address discrimination in the workplace, the Commission recommends that the Minister for Jobs, Enterprise and Innovation commission a survey of employers' knowledge of, and attitudes towards, maternity protection legislation, and a study to investigate the barriers faced by marginalised groups of women in the workplace.

Having spoken directly to migrant women workers during its consultation process, the Commission has identified a number of areas of employment law, policy and practice that are in need of reform. The Commission was particularly concerned by reports of discriminatory recruitment practices in relation to migrant women workers performing domestic work. The Commission recommends that the *Employment Equality Acts 1998–2015* be amended to address this. With regard to employment permits, the Commission recommends that the Critical Skills Employment Permit be reviewed from a gender perspective and that the Minister for Jobs, Enterprise and Innovation should consider the creation of permits for domestic work. The Commission also recommends that a regularisation scheme be introduced for undocumented migrants and that asylum seeking women living in direct provision be permitted and supported to work in Ireland.

Social security and social supports (Articles 11(1)(e) 11(2)(c))

The Commission is concerned about the gendered nature of the social security system, which is predicated on the 'male breadwinner' model. In cases where both spouses are eligible, in order to avail of a social welfare payment one spouse must be regarded as an adult dependent. The majority of these dependents are women, who are not recorded in official unemployment figures. To remedy this, the Commission recommends that the State conduct a comprehensive review of welfare policy from a gender perspective in order to eliminate any indirect discrimination pertaining to gender. The Commission also recommends that the State review the operation of the Habitual Residence Condition in order to eliminate any discriminatory impact on migrant women, Traveller women and Roma women.

A significant gender gap is also evident in Ireland's pension system, where women are less likely to be in receipt of occupational or contributory State pensions due to the increased likelihood of career interruptions. The Commission notes with concern changes made in 2012 which led to doubling of the minimum contribution a woman worker needed to make in order to qualify for a State pension. During the Commission's consultation, many older women highlighted the negative impact of these changes on their standard of living.

The Homemakers' Scheme allows up to twenty years out of the workforce to be discounted from pension assessments; however, the Commission notes that the scheme does not apply to the period before April 1994. The Commission recommends that the State's pension policy be reviewed, employing a gender impact analysis, and that the Homemaker Scheme be applied retrospectively in order to broaden access to the contributory State Pension.

Access to maternity benefit excludes those who become parents by way of surrogacy arrangements. The Commission recommends that the Maternity Benefit Scheme be amended to ensure that it is accessible to all mothers, including to those who have children by means of surrogacy.

Care work remains gendered in Irish society, with women in the majority of care roles. The Commission recommends that the State facilitate women's participation in the labour market through the implementation of the Affordable Childcare Scheme and the development of quality State-run care services for the elderly and persons with disabilities. The Commission also calls for greater recognition of the unpaid care work of women in Ireland and the provision of adequate social supports.

Poverty and homelessness (Article 13)

The economic recession experienced by Ireland during the reporting period, and the labour market crises that followed, had strong gender dimensions. Noting the particular susceptibility of certain groups of women to poverty and social exclusion, the Commission calls for the incorporation of a gender impact analysis of austerity measures with actions to reverse any negative impacts on women's economic and social rights. Similar considerations should be applied to all anti-poverty measures. Research demonstrates that lone parents faced particular hardship during this time and in that regard attention is drawn to the changes to the One Parent Family Payment introduced during the reporting period. The Commission recommends that the Minister for Social Protection review the One Parent Family Payment and implement the necessary support to ensure that recipients' right to an adequate standard of living is progressively realised.

During its consultation process, the Commission was informed that homelessness in Ireland is becoming increasingly gendered with growing numbers of women and families presenting as homeless. This has also been recognised in *Rebuilding Ireland*, the national housing and homelessness strategy. The Commission notes that research demonstrates that paths to homelessness for women and their families have been shown to be often triggered by experiences of domestic violence. The Commission recommends that a gender-sensitive approach be applied to the relevant actions of *Rebuilding Ireland* in order to support women experiencing and at risk of homelessness.

12. Health (Article 12)

During its consultation process, the Commission received numerous reports of barriers to physical and mental healthcare for women from marginalised groups, including migrant women, women with disabilities, Traveller and Roma women, and trans women. These can include the lack of interpretation or support services, as well as culturally insensitive approaches and administrative barriers. The Commission is concerned by the lack of a gender perspective in *A Vision for Change*, the national mental health policy. To address this, the Commission recommends that the State adequately resource the implementation of the HSE Gender Mainstreaming Framework in order to ensure its effective rollout, facilitating the

gender-sensitive provision of health care. Similarly, the Commission recommends that a gender perspective be adopted in the forthcoming review of *A Vision for Change* in order to ensure the consideration of women's experiences and their rights.

Sexual and reproductive health services

The *National Maternity Strategy – Creating a Better Future Together 2016–2026* highlights a number of issues within maternity services including an over-medicalised model of childbirth and poor breastfeeding support in the hospital and community, which were also raised during the Commission's consultation process. The Commission recommends that the implementation of the *National Maternity Strategy – Creating a Better Future Together 2016–2026* and the *National Sexual Health Strategy 2015–2020* be fully resourced in order to address these shortcomings in maternity services. In particular, the Commission calls for the 2016 recommendations of the UN Committee on the Rights of the Child regarding breastfeeding to be fully implemented by the State. These include awareness-raising and provision of access to materials, along with strengthening training for health-care professionals.

Ireland's legal framework regulating access to reproductive health care services stems from Article 40.3.3 of the Constitution of Ireland. 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 has a disproportionate negative impact on certain groups of women. The Commission notes that this is currently under consideration by the Citizen's Assembly (amongst a suite of other constitutional concerns) which will, following deliberation, submit a report with recommendations to the Irish parliament. The Commission recommends that the Citizens' Assembly and the parliamentary committee tasked with considering its report ensure that the relevant aspects of the Committee's concluding observations and the findings of other UN treaty monitoring bodies are taken into account.

13. Issues Affecting Specific Groups of Women (Articles 1-3, 5(a), 14 and 15)

Recalling the Committee's General Recommendation No. 28 on the vulnerabilities faced by certain groups of women, the Commission gave particular attention to the situations faced by Traveller women, women with disabilities, rural women and women in agriculture, women living in direct provision, and women in detention.

Traveller women (Articles 1-3, 5(a) and 15)

The Commission notes the repeated calls upon the State from national and international bodies to recognise Irish Travellers as an ethnic minority, and welcomes media reports in November 2016 of renewed political commitment to the recognition of Traveller ethnicity. The Commission notes the persisting institutional barriers to the provision of accommodation to Travellers, and recommends that the State take steps to address these barriers in order to progressively realise the right to culturally appropriate housing for Travellers.

Women with disabilities (Articles 1-3, 5(a) and 15)

The Commission welcomes the State's commitment to ratify the UN Convention on the Rights of Persons with Disabilities (CRPD) and the publication of a draft of the *Equality/Disability (Miscellaneous Provisions) Bill 2016*, in particular its proposed approach

to establishing an independent monitoring mechanisms under Article 33 CRPD. The Commission recalls the obligation under Article 4.3 CRPD for the State to ensure the full participation of persons with disabilities at all stages of ratification, and further recalls the importance of intersectionality in applying the CRPD. The Commission recommends that, in putting the legislative and policy framework in place for CRPD ratification, the State engage in a participatory process in order to elicit the views of people with disabilities. This process should include a gender perspective.

The Commission also welcomes the introduction of the *Recognition of Irish Sign Language for the Deaf Community Bill 2016*, and recommends that its provisions are assessed against CRPD standards.

Rural women (Articles 1-3, 5(a), 14 and 15)

In its List of Issues, the Committee asked the State to provide information on 'targeted support for rural women to increase their ... ownership of land'. The Commission further recalls the Committee's General Recommendation No. 34, which recognises that rural women's rights are insufficiently addressed in national and local policies and strategies. The Commission notes, for example, that there is one reference to gender inequality in the *Rural Development Programme Ireland 2014–2020*. The Commission recommends the integration and mainstreaming of a gender perspective in all rural development policies, strategies, plans and programmes, particularly in the mid-term review of the *Rural Development Programme*. The Commission further notes that there is a relatively low level of female land ownership in Ireland and recommends that the State conduct research into the barriers that women may face in owning land.

Many women participating in the Commission's consultation highlighted the impact of rural isolation on their lives, in particular with reference to limited rural public transport. The Commission recommends that the State undertake a review of the gender-differentiated demands for services in rural areas to ensure that the transport needs of rural women are met.

Asylum-seeking and refugee women in direct provision (Articles 1-3, 5(a), 14 and 15)

Ireland's scheme of international protection requires asylum seekers to live in accommodation under a regime known as direct provision. This system has been the subject of criticism by UN treaty monitoring bodies and by the courts in Northern Ireland. The Commission acknowledges the *Final Report* of the Working Group on the Protection Process in identifying a range of issues within the direct provision system, and the Department of Justice and Equality's ongoing efforts to implement its recommendations.

The Commission has visited a number of direct provision centres since 2014. In preparation for this report, the Commission visited two additional direct provision centres, namely Park Lodge, Killarney, Co. Kerry, and the Eglington Hotel, Salthill, Co. Galway. During its visits the Commission engaged directly with women seeking asylum and women refugees living in the centres as well as with relevant Government officials and private contractors running the facilities. The concerns raised by residents echoed some of those raised elsewhere, including in the report of the Working Group on the Protection Process, in particular with regard to the impact of direct provision on mental health.

The Commission was struck during its visits by reports of harassment experienced by female residents of both direct provision centres. Women made reference to catcalling, verbal abuse and proposition, and the effect this behaviour had on their well-being.

The Commission calls for the recommendations of the Working Group on the Protection Process to be fully implemented. The Commission recommends that gender-sensitive mental health and counselling services be provided to all women living in direct provision, and that the implementation of the Reception and Integration Agency's guidelines on sexual violence be monitored as part of inspections of direct provision centres. The Commission also recommends that both publicly and privately owned centres are made subject to the Public Sector Duty, and that that all staff are trained in gender equality and human rights.

Women in detention (Articles 2 and 15)

As part of its preparation for this report, the Commission conducted visits to both of Ireland's women's prisons – the Dóchas Centre at Mountjoy Prison in Dublin and Limerick Prison – where focus group discussions were held with the women in detention. The Commission also met prison management and noted that the Irish Prison Service has begun to recognise the complex needs of women living in detention, particularly in light of the Joint Strategy mentioned in the State Report as well as the 2010 Bangkok Rules.

The Commission notes that women's prisons are the most overcrowded in the State, posing particular challenges with regard to the segregation of sentenced and remand prisoners. The Commission considers that a review of the conditions in women's prisons now needs to be a priority, along with a need for alternatives to custody. There is a disparity between facilities available to male prisoners and those available to women, including with regard to step-down facilities, post-release and integration programs, and education programmes.

The Commission recommends that the Minister for Justice and Equality, in conjunction with the Irish Prison Service, review the operation of prison facilities in order to ensure equal treatment of women and men. The Commission further recommends that gender-sensitive approaches and facilities should be offered to women who are committed to detention in the State.

The Commission notes the absence of a specific policy on the placement of transgender persons in prison, and recommends that the Irish Prison Service adopt a policy on this in line with the Yogyakarta Principles.

The Commission also notes the over-representation of Traveller women in prison. Recalling the commitment by the Irish Prison Service to deliver 'improved services for all Travellers within the system' and to 'examine particular issues faced by female Travellers in custody', the Commission recommends that an action plan, designed in consultation with the Traveller community, be implemented to address the needs of Traveller women in prison.

The potentially damaging effect of incarceration on family relationships and mental health was highlighted to the Commission during its visits. The Commission recommends that delays in postal communications between prisoners and their families be addressed. The Commission further recommends that family-friendly contact between prisoners and their children be facilitated, including outside prison where possible.

The Commission notes the increase in the number of women being imprisoned, and acknowledges the legislative measures recently undertaken to provide alternatives to custody. However, the Commission remains concerned about the over-use of remand in cases involving women and recommends that the State develop further gender-sensitive alternatives to custody.



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