

**ICCL REPORT TO THE COMMITTEE ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**  
**Alternative to the State Report for Ireland's Fourth  
Periodic Review under the International Covenant  
on Economic, Social and Cultural Rights (ICESCR)**

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## INTRODUCTION

1. This alternative report for the UN Committee on Economic, Social and Cultural Rights (hereinafter: “the Committee”) is intended to assist with its fourth periodic review of Ireland in February 2024. It is written by the Irish Council for Civil Liberties (ICCL), an Irish based NGO with a broad mandate to promote and protect human rights in Ireland and a particular focus on criminal justice, civil society freedoms, equality and digital rights.
2. This report - grounded in our previous submission to inform the List of Issues (hereinafter “LOIs”)¹ - is not a comprehensive response to every issue raised in the adopted LOIs. Rather, we focus on those issues included in the LOIs that fall under our mandate, as well as providing information on additional issues for consideration. This report should be read in conjunction with Ireland’s fourth periodic State report (August 2021) and Ireland’s Replies to the LOIs (October 2023). We also note the additional information sent by fellow civil society organisations.
3. Ireland’s exponential growth in GDP² over the years since it adopted ICESCR has not translated into a proportionate realisation of economic, social and cultural (ESC) rights³. The State is obliged under the International Covenant on Economic, Social and Cultural Rights (hereinafter “the Covenant”) to take steps towards the progressive realisation of ESC rights “to the maximum of available resources”. ICCL stresses that the word “progressive” does not excuse an extreme lag in realising socio-economic rights in Ireland⁴. This realisation of rights still has huge margins of expansion including inter alia the right to housing, the right to both physical and mental health, gender equality and access to reproductive care.
4. Marginalised groups such as asylum seekers, Travellers, Roma, transgender people and persons with disabilities still do not enjoy equal protection of their ESC rights in law or in practice⁵. We note with concern that Ireland is currently facing a growth of far-right (particularly anti-immigrant⁶) actions exploiting among other factors socio-economic discontent⁷.
5. The pandemic exacerbated the growing inequalities in Irish society⁸. Where relevant, information pertinent to Covid-19 and State responses are included in the sections below. ICCL recognises the steps taken during the State’s response to the pandemic to protect a range of economic and social rights, in particular in the areas of housing, health and income maintenance⁹. Many of the measures introduced during the pandemic response can be regarded as progressive steps to protect ESC rights¹⁰. However, the State’s decision to not continue some of these initiatives renders them ineffective in the medium to long-term realisation of rights¹¹. Ultimately, the pandemic has shone a light on a systematic failure to provide all people in Ireland their ESC rights.

## GENERAL INFORMATION

### Domestic Application of ICESCR in Ireland

6. ICCL is concerned that the legal protection of ESC rights in Ireland is weak. For three review cycles now the Committee has recommended Ireland should incorporate ICESCR into domestic law. This has not yet happened, and based on the State response to the LOIs, there is no plan to act on the recommendation. Similarly, despite Committee recommendation, the ratification process of the Optional Protocol to ICESCR has yet to be concluded.
7. The State referenced the fact that Ireland is a dualist state and that the substance of a number of the rights contained in the Covenant is protected in the Constitution and by legislation. In reality the State has consistently failed to provide constitutional recognition of ESC rights. While some ESC rights can sometimes be protected via the Constitution, this is not satisfactory as it does not protect the extensive set of rights under the Covenant. ICCL is not aware of the State conducting any genuine exploration as to how best to protect ESC rights within the Irish domestic framework.
8. Superior Courts referred to ICESCR only a handful of time, with references limited to the rights contained in the ICESCR and not its application¹². There are no “significant justiciable dimensions” of ESC rights.¹³ ICCL is deeply concerned about the lack of justiciable remedies for ESC rights, and that the State has not offered a reasonable explanation as to why this is this case.
9. In terms of training, the Judicial Council was established pursuant to the Judicial Council Act 2019. The Council’s role is to provide judicial training and this should include ESC rights. The State ought to ensure the Council has adequate funding to fulfil its mandate. More clarity is needed on which indicators are used by the State to conclude that there is relatively high degree of awareness of ESC rights across the judiciary, legal professions, academia and CSOs.
10. Following a 2014 Constitutional Convention¹⁴ that recommended constitutional amendment to provide ESC protections, a Private Members Bill has been debated at the Oireachtas (Irish Parliament) on three occasions without success and is currently stalled before the Oireachtas. The Bill would call for a referendum to enshrine ESC rights in the Irish Constitution. ICCL notes that the State makes no reference to the Constitutional Convention nor to the Bill.
11. **The State should:**
  - Act on previous Committee recommendations to take all appropriate measures to ensure direct applicability of Covenant provisions, including through incorporation of the Covenant in its domestic legal order, and enhanced training for judges, lawyers and public officials.

- Conclude the ratification process of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
- Take all reasonable steps to make ESC rights justiciable.
- Give action to the 2014 Constitutional Convention recommendations to amend the Constitution to strengthen the protection of ESC rights.
- Provide adequate financial resources for training for the Judicial Council, to staff its training function, and engage with external experts as necessary.

### **Consultation with Civil Society in the Development of Legislation and Policy**

12. While we welcome the State practice to often launch public consultation to seek civil society views to develop legislation and policies, research<sup>15</sup> by ICCL shows that the CSOs perception of the impact that such processes have is generally ineffective, pointing to a lack of consistency in stakeholder engagements by various state bodies, both in terms of methodologies and outcomes. There is a perception that organisations in receipt of state funding cannot be as critical of the State as they would like to be for fear of having funding withdrawn. This has a negative impact on the development of policy. We note with concern that after the closing of public consultation processes, the State often fails to provide updates on the status and outcome of the consultations.

13. **The State should:**

- Adopt a consistent approach to engagement with civil society through the development of statutory guidance for stakeholder consultations. These should be underpinned by the right to freedom of expression and the right to public participation.
- Carry out a comprehensive analysis of the civic space to further identify issues with respect to civil society consultation.

### **Business and Human Rights**

14. The National Action Plan on Business and Human Rights (2017 - 2020)<sup>16</sup> finished at the end of 2021. A review of the Plan<sup>17</sup> - outlining a long list of recommendations for the development of the Second Plan - was undertaken in the same year. Consultation on the Second Plan took place in 2023<sup>18</sup>. To date, there is no clarity around the timeframe for the reiteration of the Plan.

15. **The State should:**

- Expedite and provide a clear timeframe for the publication of the Second Action Plan on Business and Human Rights.
- Provide remedies for human rights abuses committed either in Ireland or abroad by companies based in Ireland.

### **Data Collection**

16. Despite a clear Committee recommendation in the last cycle<sup>19</sup>, information on disaggregated data requested by the Committee is either entirely or partially missing in the report and in the reply to the LOIs<sup>20</sup>. We note that this not come as a surprise as disaggregated data collection in Ireland is inadequate in all areas.

17. **The State should:**

- Ensure that disaggregated data collection mechanisms in all areas of public administration are in place and use the data to inform and monitor the actual and progressive realisation of ESC rights.

## **ARTICLE 2: PROGRESSIVE REALISATION OF RIGHTS AND NON-DISCRIMINATION**

### **Maximum Available Resources**

18. The 2015 Committee recommendation for human rights impact assessments in the State's policymaking process, particularly relating to Covenant rights, has not been followed<sup>21</sup>. Broadly speaking, evidence-based human rights proofed legislative reform is needed.

19. While no reference to this is made by the State in the reporting documents, we note the ongoing discussions on an official review of the State response to the pandemic<sup>22</sup>. ICCL has called on the government repeatedly during and after the pandemic response to engage in a human rights impact assessment of the State response to the pandemic<sup>23</sup>. Such a review is vital to ensure any future emergency response is informed by lessons learned. The review should include a human rights impact assessment and consider the impact of Covid and State measures (including vaccine passes<sup>24</sup>) on a wide set of rights<sup>25</sup>, an assessment of the use of emergency powers and consider the disproportionate impact of the pandemic and State response on at-risk groups, including older people, people with disabilities and people in Direct Provision<sup>26</sup>. This is also an opportunity to undertake an assessment of the extent to which the response complied with Ireland's human rights obligations.

20. **The State should:**

- Commit to implement human rights impact assessments in its policymaking process and certify all legislation and policies that may impact rights as human rights compliant.

- Conduct a human rights impact assessment of Covid-19 and State responses, including the use of emergency powers and an assessment of the extent to which the response complied with international, regional and domestic human rights obligations, and take into account the disproportionate impact on at-risk group. Such a review should focus on learnings and embrace the principle of “build back better”.

## **Non-Discrimination**

21. ICESCR’s anti-discrimination clause is pivotal to Ireland’s work towards the greater realisation of ESC rights. Many of the issues in this report have a discriminatory and often intersectional dimension that should underpin the review.
22. In July 2021, six years after the Committee recommendation to include all grounds for discrimination set out in the Covenant, the State launched a consultation on the first comprehensive review of the Equality Acts<sup>27</sup>. The findings of the consultations are still unpublished. The Review must respond to the lived experiences of discrimination of marginalised group by introducing new grounds (including socio-economic status, sex characteristics, the prohibition of intersectional and multiple discrimination) and by expanding existing grounds (including the recognition of all carers, gender identity and gender expression and the strengthening of the obligations to provide reasonable accommodation to people with disabilities). The review should include a detailed examination of the introduction of additional grounds such as discrimination based on criminal conviction and address access to justice, effective remedies, remove unnecessary exemptions and procedural barriers<sup>28</sup>.
23. While welcoming the progress of the Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022, mentioned in the State reply, we stress the need to ensure that the Bill is proportionate in striking a balance between the different rights at stake<sup>29</sup> and that criminal law is only seen as a matter of last resort especially for hate speech<sup>30</sup>. The inclusion of new protected grounds (disability, gender as including gender expression and gender identity, descent, sex characteristics and the inclusion of Travellers under the “national or ethnic group” ground) in addition to those previously recognised under the Prohibition of Incitement to Hatred Act 1989<sup>31</sup> is very positive. The State should consider the inclusion of additional characteristics (e.g. migration status), as well as ensuring the definitions of the protected characteristics are updated and fit for purpose (e.g. by explicitly including non-binary people and perceived membership to a protected group as well as actual membership)<sup>32</sup>.
24. For new hate crime and incitement to violence or hatred legislation to be effective and widely understood, the State should introduce proper implementation measures, keep legislative and actions under review and launch a widespread public awareness campaign, as well as keep legislative and policy actions under review. While a commitment was made in relation to a public campaign, the State has yet to respond to the civil society call for the adoption alongside legislation of an action plan to combat hate crime and hate speech beyond criminal law<sup>33</sup>. While noting positive measures such as the introduction of new recording options on the Garda crime reporting system PULSE<sup>34</sup>, the availability of disaggregated data on causes and experiences of hate crime and hate speech is still limited<sup>35</sup>. Hate crimes and non-crime hate incidents are widely underreported.
25. We note the relevance of the explicit inclusion of Travellers in the upcoming hate crime legislation as a positive development in relation to the 2015 Committee recommendation to recognise Travellers as an ethnic minority. No progress was made to include Travellers as an ethnic minority in anti-discrimination legislation<sup>36</sup>.
26. A recent report on the evaluation of the three national equality strategies evidenced a failure to apply sufficient attention and effort to the implementation phase and a failure to adequately address intersectionality in the development of public policy.<sup>37</sup> Existing strategies and action plans should be fully implemented and resourced. Where relevant, new strategies should be developed, and all strategies and action plans must be drafted and implemented in strong collaboration with relevant communities and civil society organisations. The new National Action Plan Against Racism<sup>38</sup> - published after 15 years since its predecessor - is a welcome development in addressing systemic and institutional racism but it should be fully implemented to have a lasting impact, including by ensuring its full resourcing and annual monitoring, review and evaluation<sup>39</sup>.
27. Different groups in Irish society see their ESC rights consistently denied. Travellers and Roma, people with disabilities, transgender people and asylum seekers are amongst the people suffering the most from the systemic problems addressed in other sections. We note here that several Ukrainians are beneficiaries of temporary protection in Ireland. Civil society reported significant differences in access to healthcare, labour and education between Ukrainians with temporary protection and other asylum seekers in Ireland and urged the State to applying some of the successes of the Temporary Protection Directive for other asylum seekers.<sup>40</sup> The difference in treatment was also remarked during the last UN Human Rights Committee State review<sup>41</sup> under ICCPR.
28. ICCL welcomes the fully commenced Assisted Decision-Making (Capacity) Act (2015) and the Assisted Decision-Making (Capacity) (Amendment) Act 2022. Practically, this means the Decision Support Service is now operational, the system of wardship has ended as no new applications can be made following April 2023, and current Wards of court will have their cases reviewed. ICCL welcomes that persons who can be involuntarily detained under section 3(1)(b) of the Mental Health Act<sup>42</sup> enjoy the statutory right to have a legally binding advanced healthcare directive. However, those who are involuntarily detained under Section 3(1)(a)<sup>43</sup> are currently denied the right to a legally binding advanced health care directive.
29. 2023 marked the 30th anniversary of the decriminalisation of consensual sexual acts between men in Ireland. Taking a positive step to fulfil its commitments<sup>44</sup>, in December 2022 the State launched a public consultation on the introduction of a scheme to disregard convictions for certain qualifying offences related to consensual sexual activity

between men (the “Disregard Scheme”). ICCL welcomed this development noting that similar schemes have been introduced in other countries with history of criminalisation. It is essential that the Disregard Scheme is developed adopting a human rights-based approach and is underpinned by human rights and equality principles. Additional measures should also be considered for a comprehensive State recognition and reparation for the damage criminalisation inflicted upon members of the LGBTI+ community.<sup>45</sup> ICCL is not aware of any significant development since the publication of the final report on the consultation<sup>46</sup>.

**30. The State should:**

- Expedite the ongoing review of the Equality Acts, expand the list of discrimination grounds, in particular the socio-economic status, and ensures access to justice, effective remedies, removing unnecessary exemptions and procedural barriers.
- Progress new legislation on hate crime and extreme hate speech ensuring it is in line with human rights law, keep legislation under review, implement it properly, ensure it is widely understood through a public awareness campaign and commit to a comprehensive action plan to tackle hate crime and hate speech beyond criminal law.
- Fully implement, properly resource, and keep under active review strategies and action plans in close collaboration with civil society and marginalised communities. Evaluate, monitor and review the NAPAR on an annual basis.
- Tackle intersectional discrimination through legislation and policies.
- Prioritise the publication of the Draft Heads of Bill to Reform the Mental Health Act and ensure the Draft Heads of Bill extends the right to a legally binding advanced health care directive for persons involuntarily detained under section 3(1)(a) (the risk ground) of the Mental Health Act.
- Put the Disregard Scheme in place, as well additional measures for a comprehensive State recognition and reparation for the damage criminalisation inflicted upon members of the LGBTI+ community in Ireland.

## **ARTICLE 3: EQUALITY BETWEEN MEN AND WOMEN**

### **Gender Equality (Art. 3 & 6)**

31. In 2021 the Citizens’ Assembly on Gender Equality recommended three amendments to the Irish Constitution<sup>47</sup>. The Special Oireachtas Committee on Gender Equality recommended the State to hold a referendum in 2023 to give effect to the Citizens’ Assembly recommendations on constitutional change and provided proposed wording<sup>48</sup>. Following consideration of an Interdepartmental Group<sup>49</sup> and with significant delay, the referendum date was announced for 2024 International Women’s Day and the Bills containing the referendum questions published<sup>50</sup>. We note that the final wording put forward by the State in relation to “family” and “care” differs significantly to the wording proposed by the Oireachtas Committee and diverges from the recommendations of the Citizens’ Assembly on Gender Equality. Clarity on the practical legal effects of the constitutional changes should be provided by the State as a matter of priority<sup>51</sup>, as well as a rationale for the wording.
32. The upcoming referendum excludes changes to the equality provision (article 40.1). While there is merit in the decision not to proceed with the sole inclusion of sex as a discrimination ground<sup>52</sup>, the State should still commit to a review of article 40.1 to address the weaknesses in the constitutional equality guarantee which has been interpreted in a very restrictive manner by the Superior Courts and in a way that has rarely been beneficial for disadvantaged groups<sup>53</sup>. This will require in-depth analysis and consultation with experts, civil society and marginalised groups.
33. Beyond constitutional change, the Citizen’s Assembly issued forty-two other recommendations to advance gender equality, including in the areas of social protection, leadership in politics, public life and the workplace and pay<sup>54</sup>. The State still has to respond to these recommendations. Women are under-represented in political and public life and decision-making roles within the private sector.<sup>55</sup> The gender pay gap persists<sup>56</sup>. The government should address the shortfalls in the implementation of the National Strategy for Women and Girls (NSWG) 2017-2020 and to set out a timeframe for the publication of a new strategy<sup>57</sup>. No reference to a new strategy is included in the State reply to the LOIs.
- 34. The State should:**
- Provide clarity on the rationale of the wording and practical legal effects of the proposed constitutional changes as a matter of priority and commit to a time-bound review of article 40.1 that includes in depth analysis and consultation with experts and people with lived experience, particularly minoritised and marginalised groups.
  - Respond to all Citizens’ Assembly recommendations on gender equality.
  - Ensure that in advancing gender equality all those affected by gender inequalities are actively consulted, ensuring an intersectional approach, including by actively encouraging women in minoritised groups to participate in decision-making processes.
  - Address the shortfalls in the implementation of the National Strategy for Women and Girls and provide a timeframe for a new strategy.

- Ensure the Gender Pay Information Act is fully implemented and take additional measures for those places of employment which the Bill does not cover and outline clear actions to address the gender gap in political and decision-making positions in government and the private sector.

## ARTICLE 9: RIGHT TO SOCIAL SECURITY

### Public Services Card (Art. 9 & 2)

35. ICCL has long held the position that Ireland's Public Services Card (PSC), a domestic digital identity scheme initiated by the State for demonstrating proof of identity for a vast range of public services, has no clear legislative basis<sup>58</sup>, that it targets vulnerable people<sup>59</sup>, most dependent on access to State assistance, and that it is not a necessary or proportionate tool for the State's stated aims of reducing welfare fraud and error<sup>60</sup>. These concerns were shared by the UN Special Rapporteur on Extreme Poverty and Human Rights Philip Alston<sup>61</sup> and by the UN Human Rights Committee in their 2022 review of Ireland under the other Covenant.<sup>62</sup>
36. Considering that the PSC is compulsory for numerous essential services, ICCL has also been gravely concerned that obtaining a PSC requires a biometric facial scan and each person's information to be stored in an electronic database accessible by numerous state bodies<sup>63</sup>. ICCL welcomed the Department of Social Protection's decision to withdraw its appeal against the Data Protection Commission's (DPC) findings in respect of the PSC in December 2021<sup>64</sup>. The DPC found that it was unlawful for the State to force people to obtain a PSC to access public services, other than social welfare payments<sup>65</sup>. The DPC is due to issue findings in a separate investigation into the biometric element of the card and another investigation into the use of the PSC's underpinning database by the Department of Public Expenditure and Reform, following a complaint by Digital Rights Ireland that this use is unlawful<sup>66</sup>. In June 2023, ICCL revealed, following information obtained via a Freedom of Information request, that a Data Protection Impact Assessment (DPIA) of the facial matching software upgrade for the PSC in 2021 showed for the first time that the Department of Social Protection has known that its biometric processing of personal data arising from the PSC project is illegal. The DPIA also failed to identify any legal basis under Article 9 GDPR for the creation of a biometric photo and template database of 3.2 million cardholders; admitted that individuals were not given information on the legal basis of processing at the time of the PSC biometric photo data collection and acknowledges that as a breach of transparency; and identifies a risk that sensitive personal data is being held for longer than necessary or lawful.<sup>67</sup>
37. **The State should:**
- Discontinue the Public Services Cards in its current form given the privacy concerns.
  - The Data Protection Commission's findings in relation to the Public Services Card must be published as soon as possible.

## ARTICLE 10: PROTECTION OF THE FAMILY

### Mother and Baby Homes (Art. 10 & 2)

38. Government has yet to fully acknowledge the breadth and severity of the human rights violations that occurred in Mother and Baby Homes institutions. ICCL notes many survivors have disputed the Mother and Baby Homes Commission of Inquiry's final report, and have successfully legally challenged the fact that they were given no opportunity to correct or challenge the published record of their evidence. A recent High Court declaration acknowledged that the rights of eight victims who had taken the test case were breached by the failure to provide them with a draft report.<sup>68</sup>
39. The Mother and Baby Institutions Payment Scheme referenced at para 96 of the State's reply to the LOIs has been met with disappointment and criticism, and is based on the final report of the Commission which the High Court has declared flawed. The Mother and Baby Institutions Payment Scheme Bill 2022 omits over 40% of survivors, including children who spent less than six months in an institution and those who were boarded out.<sup>69</sup> The six-month requirement is arbitrary and permits no consideration of context: a child resident for 180 days receives €12,500. A child resident for 179 days receives €0. The Bill provides no compensation for forced and illegal adoptions, forced labour, unlawful vaccine trials, abuse as an adopted child, and death.
40. ICCL notes the Government's statement on the final report of the Commission of Inquiry does not mention human rights, and the Commission has been criticised for its overly narrow remit and its failure to address systemic human rights abuses.
41. **The State should:**
- Conduct a full review of the report of the Commission of Inquiry, given it has been declared flawed by the High Court.
  - Adopt a human rights-based approach to addressing the systemic abuse that occurred in Mother and Baby Homes institutions.

- Extend the redress scheme to all who have been affected by their experience in the Mother and Baby Homes institutional system.
- Refrain from limiting the rights of victims to access justice through the Courts.

### **Domestic Violence (Art. 10 & 3)**

42. ICCL notes the rise in the numbers of women and children seeking support from domestic violence support agencies during the COVID-19 pandemic. For example, AGS reported a 25% increase in calls relating to domestic violence in April/May 2020 compared to April/May 2019.<sup>70</sup>
43. While ICCL welcomes the introduction of the Domestic Violence Bill 2018, there is a lack of progress in the collection of domestic violence data and monitoring the implementation of the Istanbul Convention.
44. **The State should:**
- Develop a survivor-informed, human rights-compliant strategy on violence. Central to this strategy should be the needs of marginalised groups, specifically Irish Travellers, migrant and Roma women, and women in rural areas.
  - Increase legal aid available to victims of Domestic Violence.
  - Amend the scheme of compensation to victims of crime to better serve victims of Domestic Violence.

### **Magdalene Laundries**

45. The Committee recommended an independent investigation on the Magdalene Laundries<sup>71</sup>, however no such investigation occurred, and no progress was made in the vindication of the rights of survivors.
46. **The State should:**
- Commission an independent inquiry into the Magdalene Laundries.

### **Civil Legal Aid**

47. ICCL notes The Civil Legal Aid scheme has been repeatedly criticised for its overly strict two-tier test: financial eligibility criteria and the merits of the case. Apart from the decision to remove HAP (Housing Assistance) payments, the remit of the Scheme has not been otherwise expanded and many are still excluded from accessing the courts for this reason.
48. **The State should:**
- Meaningfully reform the Civil Legal Aid System with a view to making it less restrictive.
  - Allocate further resources to the Legal Aid Board.

## **ARTICLE 11: RIGHT TO AN ADEQUATE STANDARD OF LIVING**

### **Constitutional Reform and Steps Taken in the Context of Housing and Homelessness Crises**

49. The right to housing, when fulfilled, is a bedrock right from which other rights flow. However, such right is not being properly fulfilled by the State<sup>72</sup>. Ireland is currently facing one of the longest and most severe housing crisis the country has ever seen<sup>73</sup> and there are increasing numbers of homeless people due to an acute housing shortage<sup>74</sup>. The housing and homelessness crises was exacerbated by the pandemic. However, the emergency expedient responses to the pandemic show that change is possible.<sup>75</sup>
50. There is wide public support for a constitutional referendum to add the currently missing right to housing into the Constitution<sup>76</sup>. In July 2022 the Housing Commission launched a public consultation on a referendum on housing<sup>77</sup>. The outcome of that consultation is still unknown and no mention to referendum is made by the State. As put by the UN Special Rapporteur on adequate housing in Ireland there exists a *"unchallenged prevailing paradigm that housing is a commodity rather than a social good"*<sup>78</sup>. Ireland needs a rights-based approach to housing and a referendum must be called on the right to housing<sup>79</sup>, not merely on 'housing'<sup>80</sup>. The right to housing should explicitly encompass the seven elements identified by the Committee<sup>81</sup> as necessary for the fulfilment of the right to housing. The State must take concrete steps to guarantee legal security of tenure, availability of services, materials, facilities and infrastructure, affordability, habitability, accessibility, location and cultural adequacy. ICCL is concerned by the lack of political will for housing reform<sup>82</sup>.
51. The State has launched a new housing plan to end the housing crisis<sup>83</sup>. The new plan has been heavily criticised by civil society who note that it looks identical to old plans which have failed<sup>84</sup> and that there are fundamental flaws concerning the scale of the challenges to be addressed<sup>85</sup>. Civil society groups have also heavily criticised<sup>86</sup> the State decision not to extend a moratorium on evictions<sup>87</sup>. The lifting of the ban had an impact on homelessness increase<sup>88</sup>.
52. There is still much work to be done on addressing the housing crisis and in protecting the health of those without adequate housing. This includes those living in congregated settings such as Direct Provision Centres, overcrowded and unsuitable halting sites and homeless hostels, as well as ethnic minorities, including Travellers. The State must take further steps to protect these individuals, including by ensuring access to own door accommodation, adequate sanitation and culturally appropriate accommodation.
53. Ireland's reception system for asylum seekers - known as Direct Provision - was designed as a short-term measure in the year 2000 but it is still in place. The current government has promised to abolish Direct Provision and replace



it with a non-profit approach<sup>89</sup>. The State issued a White Paper on the issue<sup>90</sup>, which has yet to be implemented, and no information is available on the timeframe to replace the current system. The Committee previously recommended that Ireland improve the living conditions in Direct Provision centres.<sup>91</sup> No such meaningful improvements have been made and we note that during the pandemic significant outbreaks happened in congregated settings<sup>92</sup>, with people feeling unsafe in Direct Provisions during the pandemic.<sup>93</sup> We note that the Government reliance on private for-profit providers for some homeless accommodation is at odds with the goal set in the White Paper<sup>94</sup>. In December 2022 an hotel intended for asylum seekers was destroyed in an arson attack and there has been a surge of threats for similar actions on social media<sup>95</sup>.

54. In relation to people with disabilities, in 2015 the Committee recommended to take all the steps necessary to make available alternatives to institutionalisation and to improve living conditions in residential centres, including through regular inspections<sup>96</sup>. While noting the introduction of the second joint National Housing Strategy for Disabled People 2022-2027<sup>97</sup>, the State reported that institutions are inspected by HIQA. However, such inspections are only from a health and safety perspective and fail to report on instances of serious abuse such as those uncovered in 2021 by the Brandon report (sexual abuse)<sup>98</sup>. The State has failed to protect persons with disabilities in institutional settings and has failed to ratify the OP to the Convention against Torture which would establish a National Preventative Mechanism, despite their promise at the UPR to do so before the end of 2021<sup>99</sup>.
55. ICCL is also concerned about the use of forced evictions which are often carried out by private security forces with the Irish police "overseeing" this operation and use of force against those being evicted<sup>100</sup>.
56. **The State should:**
- Effectively and structurally address the housing crisis and take concrete steps to guarantee legal security of tenure availability of services, materials, facilities and infrastructure, affordability, habitability, accessibility; location; and cultural adequacy.
  - Provide a timeframe for the referendum to add the right to housing to the Constitution to create a balanced, standalone and enforceable right.
  - Abolish the current Direct Provision system, substitute with a non-for-profit model and systemically address the ongoing rise of anti-immigration actions that are contributing to a growing climate of unsafety for impacted groups.
  - Immediately stop the inappropriate presence of police at forced evictions and the use of force at these events.
  - Ensure that care facilities are inspected to a sufficient standard, including compliance with human rights standards in addition to health and safety, proceed with the long-overdue ratification of OPCAT, invest in and progress deinstitutionalisation of persons with disabilities and provide more options for persons with disabilities to live independently and in the community.

## ARTICLE 12: HEALTH

### Accessibility, Availability, Affordability and Quality of Health Services (Art. 12 & 2)

57. ICCL is concerned at the ongoing deficiencies in health-care services particularly for marginalised groups such as members of the Traveller and Roma community, people with disabilities, transgender persons and those with addiction and mental health issues accused of crime. There is also significant inequality in access between those who can only access public care and those who can afford private health insurance.<sup>101</sup> We saw during the initial stages of the Covid response that where the political will is there, the resources can be made available to take meaningful steps towards addressing the longstanding issues that have prevented the realisation of the right to adequate, available healthcare.
58. The State must consider the two key principles of non-discrimination and non-regression in fulfilling its obligations under the Covenant. ICCL is concerned that the progress made towards realising these rights has been undone in a manner not compatible with the Covenant. Not availing of a potential extension to the leasing of private hospitals means reduced public access to healthcare facilities. The lack of hospital beds and ICU beds has had a direct impact on other rights in Ireland, as government has sought to impose restrictions on movement, association, and assembly to ensure hospitals are not overrun<sup>102</sup>. As we move past the pandemic, a human rights impact assessment on the measures introduced during Covid is still pending.
59. The first National Traveller Health Action Plan (2022 - 2027) was launched at the end of 2022. The plan recognises that Travellers are falling further behind the health of the general population in Ireland. Among other alarming elements, Travellers suicide rate is six times that of the general population, and suicide accounts for 11 per cent of Traveller deaths. The average Travellers life expectancy is more than 14 years less than the general population.<sup>103</sup> Travellers were also among those disproportionately impacted by the Covid-19 pandemic<sup>104</sup>. While we welcome the publication of the strategy, this needs to be properly funded, implemented and monitored and special attention should be given to Travellers mental health.
60. Specific challenges faced by LGBTI+ people in the enjoyment of Art.12 are outlined below.

**61. The State should:**

- Make essential healthcare available to everyone in Ireland on an equal basis as a matter of priority, embracing the principle of “build back better” after the pandemic.
- Map, analyse and address the health needs of marginalised and minoritised populations.
- Properly fund, implement and monitor the National Traveller Health Action Plan (2022 - 2027).

**Drug Policy (Art. 12 & 2)**

62. The Citizens’ Assembly on Drug Use was established in February 2023 to consider possible legislative, policy and operational changes to drug policy. In October 2023, the Citizens’ Assembly agreed on 36 final recommendations<sup>105</sup> grounded in a health-led approach to drug policy: ultimately recommending treating drug use as a public health issue, rather than a criminal justice issue. Relevant recommendations include a comprehensive health-led response to drug possession for personal use, health-focused options for people with a drug addiction within the criminal justice system and using evidence-based approaches to harm reduction. ICCL is calling for a human rights-based approach to drug policy to better protect the rights of drug users, including the right to health, the right to life, the right to liberty and security, the right to privacy, and the right to equality and non-discrimination.<sup>106</sup> A human rights-based approach to drug policy includes the principle of harm prevention and addressing both the harms of drug use and the harms caused by drug policy itself. Reforms to drug policy should adopt measures to protect the right to life of drug users (Ireland’s drug- induced mortality rate is more than three times the European average<sup>107</sup>) and advance all four elements of the right to health (availability, accessibility, acceptability, and quality), including access to drug treatment without discrimination. Vitaly, drug policy reform should be guided by those with lived experience and prioritise the needs of vulnerable and marginalised groups and disadvantaged communities.

**63. The State should:**

- Implement the recommendations from the Citizens’ Assembly and adopt a human rights-based approach to drug policy on a legislative and policy basis. In doing so, adequately consult with relevant stakeholders and affected communities.

**Sexual Health and Reproductive Rights (Safe Access Zones, Abortion Review, National Maternity Hospital - Art.12, 2 & 3)**

64. ICCL welcomes the progress of the Health (Termination of Pregnancy) (Safe Access Zones) Bill 2023. ICCL believes that the Bill advances a proportionate limitation on the right to protest with a legitimate aim of protecting the rights to privacy, dignity, bodily integrity, health, access to healthcare without discrimination, and the right of medical providers to access their place of work safely. The UN Committee on Economic, Social and Cultural Rights has noted the Government obligation to ensure safe access to medical services in privacy and with dignity.<sup>108</sup>

65. Following a referendum on access to abortion in 2018, the Health (Regulation of Termination of Pregnancy) Act 2018 was introduced to provide abortion in limited circumstances: “on request” up to 12 weeks or limited circumstances relating to life or health.<sup>109</sup> An independent review published in April 2023 found that most abortions happened in the “on request” category and a very limited number of abortions occurred on the grounds related to risk of life or health.<sup>110</sup> The independent review issued several legislative recommendations to address present barriers to abortion access. For example, substituting the mandatory three-day waiting period with an obligation for medical practitioners to advise of the statutory right to a reflection period, extending the current limitation period (12 weeks) in specific circumstances when abortion is inaccessible within 12 weeks, addressing conscientious objection by obliging medical practitioners to perform abortion services in emergency situations, and removing the criminalisation of abortion for medical practitioners. The independent review also recommended legislation for safe access zones. The Joint Committee on Health published its report on the review in December 2023, which considered the independent review’s recommendations which would require legislative change. The Joint Committee on Health broadly supports the independent review’s recommendations and believes that they are necessary, together with the Health (Termination of Pregnancy) (Safe Access Zones) Bill 2023, to meet the needs of people seeking abortion services.

66. In July 2023, Cabinet approved the plans for the construction of the new National Maternity Hospital, which will be built on land owned by a religious organisation, known for opposing abortion. Concerns have been raised that the religious organisation will have some influence on the services provided in the new hospital, but the Government has assured all reproductive healthcare will be available.<sup>111</sup>

**67. The State should:**

- Continue to timely progress the Health (Termination of Pregnancy) (Safe Access Zones) Bill 2023 through the Oireachtas to ensure safe access to abortion services in privacy and with dignity.
- Develop a public awareness campaign to raise awareness of the new Bill and how it will operate in practice, including that individuals can continue to exercise their rights to freedom of expression, assembly, and association in a peaceful manner in public places that are outside of a safe access zone.
- Meaningfully implement the recommendations from the independent review to ensure abortion access for all who require it, including addressing barriers to care faced by specific populations, such as those living in rural areas, international protection applicants living in Direct Provision centres, or persons with disabilities.

The review of the Act should be an iterative process and a further review should occur in three years to ensure the legislation is meeting abortion needs.

- Remove the arbitrary three-day waiting period as it imposes a physical and psychological burden on individuals, undermines agency and individual decision-making, and can create additional logistical stress and financial barriers, particularly for those who face additional barriers to access.
- Ensure that the Health Service Executive (HSE) should advance the work of the Working Group to complete the implementation of the operational recommendations.
- Continue the free contraception scheme and consider expanding it, as it is currently limited to those aged 17-31 and those who have a Personal Public Service Number (PPSN).
- Ensure the full clinical independence of the hospital from any non-secular body and to legally guarantee all services will be provided, including abortion and in vitro fertilisation (IVF) and that nothing in the arrangement will cause patients to be denied healthcare due to religious ethos.
- Take steps to address the relationship between private and religious control over public education and health services.

## **Mental Health and the Criminal Justice System**

68. ICCL is concerned at the high level of accused and convicted persons suffering from mental health issues.<sup>112</sup> This marginalised group does not have equal access to mental health services.

### **69. The State should:**

- Implement the recommendations of the Mental Health Commission.
- Take all necessary actions to address the overrepresentation of mentally unwell persons in prisons and improve access to mental health services for this group.

## **Practices Specific to LGBTI+ People (Surgeries on Intersex Children, Conversion Practices, Trans-Specific Healthcare - Art. 12, 10, 2)**

70. Intersex genital mutilations (IGM) are still performed in Ireland for what medical professionals refer to as “social emergencies” rather than medical necessity<sup>113</sup>. IGM practices include non-consensual, medically unnecessary, irreversible, cosmetic genital surgeries, and/or other harmful medical treatments<sup>114</sup>. In 2022 the UN Human Rights Committee recommended the State to prohibit such practices<sup>115</sup> however no ban has been introduced since then.

71. The State committed to prohibiting the promotion or practice of conversion practices.<sup>116</sup> In February 2023 the Government published a new report indicating that such practices take place in Ireland with commitment to use the new research to inform legislation to prohibit them<sup>117</sup>. To date, legislation still needs to be published - the structure of the legislation is reported to be in preparation<sup>118</sup> - and such practices are still legal in Ireland.

72. Ireland has the worst healthcare system for trans people among the 27 EU member states in relation to availability and accessibility of trans-specific healthcare<sup>119</sup>. Access to gender-affirming care is of key importance to the health and wellbeing of transgender people, and this access is severely limited in Ireland. The provision of gender-affirming care is primarily available through the Dublin-based National Gender Service (NGS). As of May 2023, there were over 1,400 people on the waitlist for the NGS<sup>120</sup>. This amounts to a ten-year waitlist for transgender adults to access hormone treatment, meaning that this healthcare is effectively unavailable through the public system. This failure of the public healthcare system means that transgender people in Ireland must travel abroad to access private surgery, at significant financial cost. While noting plans to introduce changes<sup>121</sup>, ICCL is worried about the current standards of care for trans and non-binary people in Ireland and urges the State to address the issue systemically - including by means of an action plan - and in line with international best standards.<sup>122</sup> Policies and services should be designed and delivered in coordination with civil society and people with lived experience.

### **73. The State should:**

- Take necessary measures to end the performance of irreversible medical acts, especially surgical operations, on intersex children who are not yet capable of giving their free and informed consent, except in cases where such interventions are absolutely necessary for medical reasons.
- Urgently introduce and enact legislation to completely ban conversion practices on LGBTI+ people.
- Take all reasonable steps to ensure that transgender people and non-binary people have publicly-available, accessible, and high-quality healthcare services in line with best international standards, eliminate unnecessarily long waiting lists and put together a working plan to institute better trans healthcare.

## **Mental Health and Algorithmic Recommender Systems**

74. Digital platforms’ algorithmic “recommender systems” select emotive and extreme posts and show them to people that the algorithm judges are most likely to be shocked or outraged. This keeps users on the platform, where they can be monetised. Digital platform recommender systems find emotive videos and posts and expose them to large audiences to maximise engagement. Without algorithmic amplification, dangerous material from the small core group would not be widely seen. A person who posts illegal content will not be able to spread widely unless the recommender system amplifies it<sup>123</sup>. Recommender systems pose a considerable threat to mental health. For example, in just one hour after Amnesty International started a TikTok account posing as a 13-year-old child who

views mental health content, videos encouraging suicide were recommended<sup>124</sup>. While the issue is of relevance globally, it is even more for Ireland as several digital platforms have their headquarters based in the country.

**75. The State should:**

- Take measures to ensure that digital platforms are prohibited from using intimate profiles about people to push videos or other content into their feeds, unless in an individual case a person explicitly requests this from the platform and has the opportunity to confirm their request. Digital platforms are already required to have explicit (two-step) consent for any processing of “special category” data about people’s sexuality, ethnicity, health, and political and religious views. The State should ensure that this protection is enforced.

## **ARTICLE 13: EDUCATION**

### **Biometric Processing to Monitor Attendance at Schools (Art. 13 & 2)**

76. In December 2023, a Dublin newspaper reported that an English-language school in Dublin is using a biometric system and app to scan international students’ fingerprints and faces for the purpose of tracking their attendance at the school.<sup>125</sup> A student quoted in the article states that there is often no alternative to using the biometric system. It was reported that the school submits attendance logs to the Department of Justice’s Immigration Service Delivery and these logs play a crucial role when the students seek to renew their immigration status. Students are also required to submit a medical certificate to the school via the app when they are unwell and unable to attend. The article reported, “A spokesperson for the Department of Justice said English language schools can have all kinds of systems to monitor attendance.” ICCL is concerned about the school’s processing of special category data and what, if any, legal basis, the school is relying upon to carry out this processing. It is also unclear to ICCL if any Data Protection Impact Assessment (DPIA) has been carried out. ICCL is also concerned about the Department of Justice’s approval and role in the roll-out of this system and how widespread the use of such a system is in English-language schools. We believe this practice gives rise to serious data protection concerns and ICCL requested that the Data Protection Commission investigate this matter. The DPC has confirmed to ICCL that it is examining the matter.

**77. The State should:**

- Identify the legal basis for the processing of biometric data in this manner.
- Demonstrate how this processing is necessary and proportionate.
- Confirm whether or not a Data Protection Impact Assessment has been carried out in respect of the system and publish the same.
- Confirm how widespread this system is used by schools in pursuit of complying with the Department of Justice’s attendance log requirements.

### **Access to Secular Schooling and Relationship and Sexual Education (Art. 13 & 2)**

78. Many schools in Ireland continue to be run by religious orders, in particular those belonging to the Catholic Church. While noting the introduction of the Education (Admission to Schools) Act 2018 that amended the Equal Status Acts 2000-2015, religious discrimination in school admissions is still permitted. As previously reported to the UN by ICCL<sup>126</sup> and by Ireland’s national human rights institution, privately funded primary schools and secondary schools which purport to be providing education in an environment which promotes religious values can give preferential treatment to students of a particular religion, and publicly-funded schools providing education in an environment which promotes religious values can refuse to admit students on the basis of religion where doing so is considered essential to maintain the ‘ethos’ of the school<sup>127</sup>.

79. In 2019, the Joint Committee on Education and Skills produced a report with recommendations to update the curriculum and delivery of RSE in schools focusing on the importance of LGBTI+ inclusion<sup>128</sup>. In May 2023 a new curriculum for Junior Cycle students inclusive of LGBTI+ identities and experiences was introduced<sup>129</sup>. An updated curriculum is expected for Senior Cycle students at second level (2024) and at primary level (2025)<sup>130</sup>. The Joint Committee also recommended that a specific curriculum for people with an intellectual disability that is accessible and appropriate, and deals with sexuality and contraception, should be developed at the earliest possible date and that funding for specific education programmes for school leavers and older adults may have missed out on sexual education or who may need reinforced education should be made available. Any such programme should contain the same range and depth of information as programmes for those who are not disabled but produced in formats which will make it accessible to people with an intellectual disability to ensure equity of access. No progress was made to this end.

**80. The State should:**

- Review the Education (Admission to Schools) Act 2018 and the Equal Status Acts to ensure that the exemption for refusal of admission on the basis of religion does not adversely impact access to education, that the right to equal treatment and the right to free practice of religion are properly balanced and provide a more precise definition of “ethos”.
- Ensure that the recommendations from the 2019 Oireachtas Joint Committee on Education and Skills report on Relationships and Sexual Education are implemented in full, in a timely manner.

## Annex: Endnotes with references and additional information

- <sup>1</sup> ICCL, [Submission for the Preparation by The Committee on Economic, Social and Cultural Rights of a List of Issues for the Examination of the Combined Fourth Periodic Report of Ireland](#), 7 January 2022.
- <sup>2</sup> Ireland is one of the OECD's fastest growing economies, see [OECD](#).
- <sup>3</sup> For e.g. see Joanne McCarthy, "[Ireland worst country in western Europe to have a disability](#)", The Irish Times, 9 January 2020.
- <sup>4</sup> See e.g. CESCR General Comment No. 3, The Nature of States Parties Obligations (Art. 2 para. 1) UN Doc. E/1991/23, 14 December 1990; Liam Thornton, "[Socio-Economic Rights and Ireland](#)" in Suzanne Egan (ed.) *International Human Rights: Perspectives from Ireland* (Dublin: Bloomsbury, 2015), p.6.
- <sup>5</sup> See e.g. Kitty Holland, "[Ireland ranked worst for transgender healthcare in EU](#)", The Irish Times, 31 October 2022.
- <sup>6</sup> Sorcha Pollack, "[Analysis: Ireland waved goodbye to its world-famous welcome last year as anti-immigrant rhetoric gained foothold](#)", The Irish Times, 3 January 2024.
- <sup>7</sup> See Eoin Burke-Kennedy, "[Ireland's economic divide providing a lit match for far right](#)", The Irish Times, 5 February 2023;
- <sup>8</sup> E.g. While those who could transitioned to working from home, those in low-income jobs were compelled to work on the frontline often without paid sick leave during the strictest lockdowns seen in Europe.
- <sup>9</sup> See e.g. ICCL, [Human Rights in a Pandemic](#), May 2021, p. 69
- <sup>10</sup> These included legal protection for people at risk of eviction and ensuring the availability of sufficient healthcare for all people in Ireland through leasing private hospitals and relaxing the application of the exclusionary habitual residence condition. Significant steps were also taken to assist vulnerable homeless people with adequate housing and provide people who use drugs with efficient access to essential health services.
- <sup>11</sup> For e.g. the decision to stop leasing private hospitals, see Martin Wall, Harry McGee, "[Private hospitals 'takeover' by State will not be extended past June](#)", The Irish Times, 29 May 2020.
- <sup>12</sup> The only references to ICESCR to date by Superior Court Judges were twice by the High Court in *S. I. v The Minister for Justice, Equality and Law Reform* [2007] IEHC 165 (Finlay Geoghegan J.) and *K.R.A. and B.M.A. (A minor suing by her mother and next friend K.R.A.) v The Minister for Justice and Equality* [2016] IEHC 289, para. 63 and once by the Supreme Court in *A.B.M. and B.A. v The Minister for Justice and Equality*, [2020] IESC 55 McKechnie J, para. 217.
- <sup>13</sup> CESCR, General Comment No. 9, *The Domestic Application of the Covenant*, UN Doc. E/C.12/1998/24, 03 December 1998, para. 10.
- <sup>14</sup> Citizen's Information, [Convention on the Constitution](#), 12 November 2021.
- <sup>15</sup> Currently unpublished, ICCL can provide access to the full research to Committee members to support the review.
- <sup>16</sup> Government of Ireland, [National Action Plan on Business and Human Rights \(2017 - 2020\)](#), 2017.
- <sup>17</sup> Department of Foreign Affairs, [Review of implementation of National Plan on Business and Human Rights 2017-2020](#), December 2021.
- <sup>18</sup> Department of Foreign Affairs and the Department of Enterprise, Trade and Employment, [Ireland's Second National Plan on Business and Human Rights \(2024-2027\), consultation document](#), 27 July 2023.
- <sup>19</sup> CESCR, Concluding observations on the third periodic report of Ireland, E/C.12/IRL/CO/3, 8 July 2015 (hereinafter "Concluding Observations, 2015"), para. 6.
- <sup>20</sup> See e.g. CESCR, List of issues in relation to the fourth periodic report of Ireland, 21 March 2022, E/C.12/IRL/Q/4 (hereinafter: "LOIs, 2022") para 10, para 22, para 26 and para 27.
- <sup>21</sup> Concluding observations ,2015, para. 11(d).
- <sup>22</sup> Jennifer Bray, "[Covid-19: Inquiry into Ireland's handling of pandemic to hear from bereaved families](#)", The Irish Times, 4 January 2024.
- <sup>23</sup> See e.g. [ICCL writes to Taoiseach about Covid Review](#), April 2023.
- <sup>24</sup> See ICCL, "[ICCL says vaccine passports contrary to equality law](#)", 2 July 2021.
- <sup>25</sup> Including the right to protest, the right to free movement, the right to privacy. See ICCL, [Human Rights in a Pandemic](#), May 2021
- <sup>26</sup> ICCL, [Human Rights in a Pandemic](#), May 2021, p. 65-75.
- <sup>27</sup> Department of Children, Equality, Disability, Integration and Youth, [Consultation on the review of the Equality Acts](#), 6 July 2021.
- <sup>28</sup> See [FLAC Submission to the Department of Children, Equality, Disability, Integration and Youth's Consultation on the Review of the Equality Acts](#), December 2021, as endorsed by ICCL.
- <sup>29</sup> Including the right to freedom of expression and prohibitions on non-discrimination and incitement to hatred.
- <sup>30</sup> See e.g. ICCL, [Briefing note on Criminal Justice \(Incitement to Violence or Hatred and Hate Offences\) Bill 2022](#), 7 November 2022
- <sup>31</sup> To be repealed by the new law. The protected grounds under the 1989 Act are race, colour, nationality, religion, national or ethnic origin and sexual orientation.
- <sup>32</sup> See Coalition Against Hate Crime Ireland, [Suggested amendments to the Criminal Justice \(Incitement to Violence or Hatred and Hate Offences\) Bill 2022](#), 8 February 2023.
- <sup>33</sup> See e.g. as outlined in the Coalition Against Hate Crime, [Second Stage Briefing Note for Senators on the Criminal Justice \(Incitement to Violence or Hatred and Hate Offences\) Bill 2022](#), 8 June 2023.
- <sup>34</sup> Grounded in the delivery of the [An Garda Síochána Diversity and Integration Strategy 2019-2021](#).
- <sup>35</sup> An Garda Síochána only disaggregate data by the broad categories of colour, disability, ethnicity, gender, nationality, race, religion and sexual orientation and no information is available on intersectional or multiple motives (see An Garda Síochána, [Hate Crime Statistics](#)). OSCE ODIHIR observed that no information was made available by the State on hate crimes recorded by the prosecution or judiciary (see ODIHIR, [Hate Crime Reporting Ireland](#), 2022).
- <sup>36</sup> See Concluding Observations, 2015, para 33.
- <sup>37</sup> Kavanagh, Sweeney, Farahani, Radoska & Bailey, [Realising the promise of national equality policy "An evaluation of the processes of implementation of three national equality strategies"](#), May 2023. The three strategies evaluated are the Migrant Integration Strategy, the National Strategy for Women and Girls and the National Traveller and Roma Inclusion Strategy.
- <sup>38</sup> Department of Children, Equality, Disability, Integration and Youth, [National Action Plan Against Racism](#), 2023.
- <sup>39</sup> See the [Coalition for the Implementation of the National Action Plan Against Racism](#) recommendations on the matter.
- <sup>40</sup> Jade Wilson, "[Europe's two-tier asylum system: doors open for Ukrainians as others seeking refuge face barriers](#)", The Irish Times, 22 May 2023. Asylum seekers are subjected to poor living conditions and strict restrictions on accessing employment, social security, healthcare and education (see Irish Refugee Council and Doras, "[Joint Submission on Ireland's 3rd Periodic Report to the International Covenant on Economic, Social and Cultural Rights](#)", 2020.)

- <sup>41</sup> UN, [In Dialogue with Ireland, Experts of the Human Rights Committee Praise Legislation Combatting Hate Crimes, Raise Issues Concerning Rights Abuses at Institutions](#), July 2022. A committee member questioned whether the Government was planning to extend the measures it had implemented to expedite the processing of refugees from Ukraine to refugees from other countries.
- <sup>42</sup> [Mental Health Act](#), Section 3(1)(b): where the person is deemed to have “impaired judgement” and detention would be ‘likely to benefit or alleviate the condition of that person’.
- <sup>43</sup> [Mental Health Act](#), Section 3(1)(a): “[...] causing immediate and serious harm to himself or herself or to other persons”.
- <sup>44</sup> The State committed to the introduction of the Disregard Scheme on several occasions, including in the [Programme for Government 2020 “Our Shared Future”](#), p. 77.
- <sup>45</sup> See ICCL, [ICCL submission on the Disregard of Convictions for certain Qualifying Offences Related to Consensual Activity Between Men](#), December 2022.
- <sup>46</sup> Department of Justice, [Minister McEntee publishes report on disregarding certain historic convictions related to consensual sexual activity between men](#), June 2023.
- <sup>47</sup> On article 40.1 to refer explicitly to gender equality and non-discrimination; on article 41 to protect private and family life, with the protection afforded to the family not limited to the marital family; and on article 41.2 to delete and replace existing provisions with language that is not gender specific and obliges the State to take reasonable measures to support carers within the home and wider community. [Report of the Citizens’ Assembly on Gender Equality](#), June 2021. We note that the third recommendation is relevant in relation to a 2015 Committee recommendation on rendering provisions in the Constitution gender-equal (see Concluding Observations, 2015, para 15).
- <sup>48</sup> Joint Committee on Gender Equality, [Unfinished Democracy: Achieving Gender Equality, Final Report](#), December 2022. See also ICCL, [Submission to the Oireachtas Joint Committee on Gender Equality regarding the Citizens’ Assembly Recommendations on Gender Equality](#), March 2022.
- <sup>49</sup> Referendums on Family, Care and Gender Equality - [request for submissions](#), 25 April 2023.
- <sup>50</sup> [Thirty-ninth Amendment of the Constitution \(The Family\) Bill 2023](#) and [Fortieth Amendment of the Constitution \(Care\) Bill 2023](#).
- <sup>51</sup> See also FLAC, [FLAC highlights concerns with the proposed ‘Care’ referendum wording and the need for information on the practical effects of the proposed ‘Family’ amendment](#), 12 December 2023.
- <sup>52</sup> As suggested by the Gender Equality Committee in their proposed wording.
- <sup>53</sup> Colm Ó Cinnéide, [Aspirations Unfulfilled: The Equality Right in Irish law](#), IHRLR 41, July 2006.
- <sup>54</sup> [Report of the Citizens’ Assembly on Gender Equality](#), June 2021. These were also examined by the Gender Equality Committee.
- <sup>55</sup> Only 22,5% of TDs elected in 2020 were women, with Ireland ranking 100th out of 187 countries for parliamentary representation and women holding only 27% of cabinet positions. There are only 27% of women on boards of the top 20 listed Irish companies and 38% of Irish listed companies with no women on their leadership team. [Report of the Citizens’ Assembly on Gender Equality](#), June 2021, p. 69.
- <sup>56</sup> Last data available is from 2018, [Statistics | Eurostat](#). We recognise the positive introduction of the Gender Pay Gap Information Act in June of 2021, that however applies only to companies with more than 50, 150 or 250 employees.
- <sup>57</sup> NWCI, [National Women’s Council calls for new National Strategy for Women and Girls](#), 13 July 2023.
- <sup>58</sup> ICCL, [Submission to Joint Committee on Employment Affairs and Social Protection: The Public Services Card](#), 6 February 2018.
- <sup>59</sup> ICCL, [“The Public Services Card: Enforced Digital Identities for Social Protection Services”](#), June 7, 2019.
- <sup>60</sup> ICCL, [Submission to Joint Committee on Employment Affairs and Social Protection: The Public Services Card](#), 6 February 2018.
- <sup>61</sup> [Letter from the UN Special Rapporteur on Extreme Poverty and Human Rights Philip Alston to the Irish Government](#), 14 April 2020.
- <sup>62</sup> [CCPR/C/IRL/CO/5](#).
- <sup>63</sup> The PSC requires users to provide a photo and a facial image biometric scan via the Standard Authentic Framework Environment registration system. This data is combined across agencies into the Single Customer View (SCV) database accessible by certain public agencies.
- <sup>64</sup> Will Goodbody, [“Appeal over use of Public Services Card dropped by Dept”](#), RTE 10 December 2021.
- <sup>65</sup> See ICCL, [“ICCL reiterates calls to stop the PSC and delete data now”](#), 18 September 2019. The DPC also found the functioning of the card was not sufficiently transparent, and ordered the Department to delete the supporting documentation that, at that point, some 3.2 million card holders gave the department as part of their PSC application.
- <sup>66</sup> Jack Power, [“Data protection watchdog launches new inquiry into Public Services Card”](#), The Irish Times, 24 August 2021
- <sup>67</sup> See ICCL, [“Assessment of PSC facial recognition software reveals Department of Social Protection has known its biometric processing arising from the PSC is illegal”](#), 9 June 2023
- <sup>68</sup> *Philomena Lee and Mary Harney v. the Minister of Children, Equality, Disability, Integration and Youth* 2021/303JR.
- <sup>69</sup> OAK report, [Report Of the findings of the Consultation with Survivors of Mother and Baby Homes and County Homes, March - April 2021](#), 17 May 2021.
- <sup>70</sup> Jessica Doyle, [L&RS Note: Domestic violence and Covid-19 in Ireland](#), 9 June 2020, p.1.
- <sup>71</sup> Concluding Observations, 2015, para 18.
- <sup>72</sup> See e.g., [Housing Rights Watch](#). In its last review, CESCR recommended Ireland take numerous steps to address the housing crisis. Concluding Observations, 2015, para. 26.
- <sup>73</sup> Gráinne Ní Aodha, Cate McCurry, [“Ireland’s housing crisis ‘one of the longest and most severe’](#)”, The Irish Examiner, 31 May 2022.
- <sup>74</sup> Shauna Bowers, Jack Horgan-Jones, [“Homeless figures hit new record with more than 4,000 children in emergency accommodation”](#), The Irish Times, 5 January 2024.
- <sup>75</sup> HSE Clinical Lead for the Homeless Covid Response in Dublin, Dr Austin O Carroll, [“The Opportunity of Crisis”](#), 19 May 2020, “[t]he experience to date of the Covid-19 initiative for the homeless demonstrates that health and housing are inextricably linked. The challenge now is to capitalise on the progress achieved to date, to make the temporary more permanent thereby ensuring a continuity of care for Ireland’s most vulnerable citizens in a post-pandemic world.”
- <sup>76</sup> See [Home for Good](#) campaign.
- <sup>77</sup> [Public Consultation on a Referendum on Housing in Ireland](#), 30 June 2022.
- <sup>78</sup> Leilani Farha, UN Special Rapporteur on adequate housing, [“Making the Case for a Right to Housing in Ireland”](#), Simon Community, June 2018.
- <sup>79</sup> On the need for a stand-alone right, see [Home for Good submission to the Housing Commission](#).
- <sup>80</sup> This model would be aligned with more than 80 countries in the world. See Mercy Law Resource Centre, [The Right to Housing in Ireland](#), 2019.
- <sup>81</sup> Committee on Economic, Social and Cultural Rights, [General Comment 4, The right to adequate housing](#) (Sixth session, 1991), U.N. Doc. E/1992/23, annex III at 114 (1991), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 18 (2003).
- <sup>82</sup> E.g. Ireland has an explicit reservation on Article 31 (Right to Housing) of the European Social Charter (revised). See [here](#).

- <sup>83</sup> Department of Housing, Local Government and Heritage, [Housing for All - a New Housing Plan for Ireland](#), 2 September 2021.
- <sup>84</sup> Watch "New Plan for Housing, Same Failed Policies", Irish Congress of Trade Unions, 30 April 2021 published on the [Raise the Roof campaign](#) page.
- <sup>85</sup> Social Justice Ireland, [Housing for All Strategy Won't Solve Housing Crisis](#), 20 September 2021.
- <sup>86</sup> [Raise the Roof Calls on TDs to Restore the Eviction Ban](#), 15 March 2023.
- <sup>87</sup> Cormac McQuinn and Pat Leahy, "[Eviction ban will not be extended and will lapse at end of March](#)", The Irish Times, 6 March 2023.
- <sup>88</sup> In the first three months since the end of the Government ban on evictions, half of the single adults who became homeless said they had been evicted from rental accommodation as reported by Jack Power, Olivia Kelleher, "[Homelessness in Ireland: New figures show impact of lifting of eviction ban](#)", The Irish Times, 29 July 2023.
- <sup>89</sup> [Programme for Government 2020 "Our Shared Future"](#), p. 88.
- <sup>90</sup> Department of Children, Equality, Disability, Integration and Youth, [White Paper on Ending Direct Provision](#), 26 February 2021.
- <sup>91</sup> Concluding Observations, 2015, para 14.
- <sup>92</sup> ICCL, [Human Rights in the Pandemic](#), May 2021, p.74-75.
- <sup>93</sup> Irish Refugee Council, [Submission to the Special Committee on Covid-19](#), 26 May 2020, p. 6.
- <sup>94</sup> Laoise Neylon, "[Advert for Homeless Hostel Estimates Profits of €250,000 a Year](#)", Dublin Inquirer, 27 January 2021. There have been informal reports that it is the same companies who are profiting from Direct Provision and homeless centres.
- <sup>95</sup> Sorcha Pollak, "[After another arson attack, what options are left for housing asylum seekers?](#)", The Irish Times, 19 December 2023; Conor Gallagher, Jennifer Bray, "[Surge in arson threats on rumoured asylum seeker locations as gardai step up patrols](#)", The Irish Times, 6 January 2024.
- <sup>96</sup> Concluding Observations, 2015, para 13.
- <sup>97</sup> Department of Housing, Local Government and Heritage, Department of Health, Department of Children, Equality, Disability, Integration and Youth [National Housing Strategy for Disabled People 2022-2027](#), 14 January 2022.
- <sup>98</sup> Kitty Holland, "[ICCL says properly implemented systems could have prevented abuse at Donegal care home](#)", The Irish Times, 28 October 2021.
- <sup>99</sup> See UN, [Ireland, UPR](#), 10 December 2021. We also flag the lack of ratification of the OP to UNCRPD, which provides for a range of social, economic, and cultural rights specific to persons with disabilities, including the right to independent living and being included in the community (Article 19), the right to education (Article 24), the right to health (Article 25), and the right to an adequate standard of living and social protection (Article 28).
- <sup>100</sup> See e.g., [ICCL demands answers from Gardai over disproportionate and unaccountable tactics used at North Frederick Street eviction](#), 12 September 2018; [ICCL questions gardai over allegedly illegal eviction](#), 13 August 2020; Conor Gallagher "[The vexed issue of gardai and evictions: It's a messy, nasty business](#)", The Irish Times, 29 October 2021.
- <sup>101</sup> Recent figures stating the number of people on hospital outpatient waiting lists as exceeding 830,000, see Sarah Burns, "[More than 830,000 patients on hospital waiting lists last month, figures show](#)", The Irish Times, 13 May 2023.
- <sup>102</sup> See e.g. ICCL, [Human Rights in a Pandemic](#), May 2021, p.37-64.
- <sup>103</sup> Department of Health, [National Traveller Health Action Plan \(2022 - 2027\)](#), November 2022.
- <sup>104</sup> See ICCL, [Human Rights in a Pandemic](#), May 2021, p. 74.
- <sup>105</sup> Citizens' Assembly on Drugs Use, [Recommendations](#), as agreed on 22-23 October 2023.
- <sup>106</sup> ICCL, Submission to the Citizens' Assembly on Drug Use, 29 June 2023, not available online.
- <sup>107</sup> European Monitoring Centre for Drugs and Drug Addiction and Health Research Board, "[Ireland: Country Drug Report 2017](#)".
- <sup>108</sup> See CESCR [General Comment No. 14: The Right to the Highest Attainable Standard of Health \(Art. 12\)](#), E/C.12/2000/4 at para. 12.(b). The Committee in the same General Comment links the right to health to both privacy and dignity at para. 3.
- <sup>109</sup> See [Health \(Termination of Pregnancy\) Act 2018](#) sections 9 (risk to life or health), 10 (risk to life or health in emergency) and 11 (condition likely to lead to death of foetus).
- <sup>110</sup> Marie O'Shea, BL., [The Independent Review of the Operation of the Health \(Regulation of Termination of Pregnancy\) Act 2018](#), February 2023, p. 6.
- <sup>111</sup> See e.g., ICCL, [Government must guarantee all healthcare at National Maternity Hospital](#), 11 May 2022.
- <sup>112</sup> See [Report by the Mental Health Commission on Access to Mental Health Services for People in the Criminal Justice System](#), 2021.
- <sup>113</sup> See Intersex Ireland, [Current Medical protocols](#), as accessed on 11 January 2024.
- <sup>114</sup> The Committee has previously recommended ending such practices in its concluding observations, see [E/C.12/DNK/CO/6](#) para 65.
- <sup>115</sup> [CCPR/C/IRL/CO/5](#).
- <sup>116</sup> Including in the Department of Children and Youth Affairs, [LGBTI+ National Youth Strategy 2018-2020, Programme for Government - Our Share Future](#) (2020) and Department of Children, Equality, Disability, Integration and Youth, [National LGBTI+ Inclusion Strategy 2019-2022](#)
- <sup>117</sup> [Minister O'Gorman announces the publication of the report 'An Exploration of Conversion Therapy Practices in Ireland'](#), 17 February 2023.
- <sup>118</sup> [Government Legislative Programme, Autumn 2023](#).
- <sup>119</sup> Transgender Europe, [Trans Health Map 2022](#).
- <sup>120</sup> Ellen Kenny, "[Waiting Lists for the National Gender Service 'likely to get worse'](#)", Newstalk Ireland. 9 May 2023.
- <sup>121</sup> Beatrice Fanucci, "[HSE to establish new gender-affirming healthcare service in Ireland](#)", GCN, 27 February 2023.
- <sup>122</sup> World Health Organisation, [International Classification of Diseases - 11](#), 2022. WHO reclassified gender-affirming care from psychiatry to sexual health.
- <sup>123</sup> See ICCL, [Ending artificial amplification of hate & hysteria](#), December 2023.
- <sup>124</sup> Amnesty International, [Global: TikTok's 'For You' feed risks pushing children and young people towards harmful mental health content](#), 7 November 2023.
- <sup>125</sup> Shamin Malekmian, "[Some students whose immigration status depends on their class attendance rate wrestle with a biometric clock-in system](#)", Dublin Inquirer, 20 December, 2023
- <sup>126</sup> See [ICCL Report to the UN Human Rights Committee, Alternative to the State Report for Ireland's 2022 review under the International Covenant on Civil and Political Rights](#), May 2022, p.43.
- <sup>127</sup> See Irish Human Rights and Equality Commission, [Ireland and the International Covenant on Civil and Political Rights - Submission to the Human Rights Committee on Ireland's fifth periodic report](#), June 2022, p.78.
- <sup>128</sup> Houses of the Oireachtas, [Joint Committee on Education and Skills Report on Relationships and Sexuality Education](#), January 2019.
- <sup>129</sup> Belong To, "[New Junior Cycle SPHE Curriculum has Youth Voice at its Core](#)", 30 May 2023.
- <sup>130</sup> Ellen O'Donoghue, Carl O'Brien, "[New sex education curriculum reflects 'real lived experience,' says Minister](#)", The Irish Times, 16 May 2023.