



## **UN Committee on the Rights of the Child**

### **Thematic Submission by the Irish Penal Reform Trust for the 93rd Pre-Sessional Working Group of the UN Committee on the Rights of the Child (September 2022)**

**Submitted 15<sup>th</sup> August 2022**

#### **About IPRT**

Established in 1994, the Irish Penal Reform Trust (IPRT) is Ireland's leading civil society organisation campaigning for rights in the penal system and the progressive reform of Irish penal policy. Our vision is one of respect for human rights in the penal system, with imprisonment used only as a sanction of last resort. We work towards progressive reform of the penal system based on evidence-led policies and a commitment to combating social injustice.

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## Introduction

1. IPRT welcomes the opportunity to provide this submission to the UN Committee on the Rights of the Child ('the Committee') to supplement Ireland's ('the State') fifth and sixth combined reports under Article 44 of the UN Convention on the Rights of the Child (UNCRC). This is a thematic report pertaining to issues arising in child justice and children with a family member in prison in Ireland.

## Administration of child justice

### Age of criminal responsibility (paragraph 31(a))

2. The State in its response to the Committee's request on measures taken to raise the age of criminal responsibility to 14 years,<sup>1</sup> makes clear that the age of criminal responsibility has still not been raised to 14 despite the Committee's previous recommendation.<sup>2</sup> Instead, the State indicates that the relevant provisions permitting the prosecution of children aged 10 or 11 (for certain serious crimes) and children aged 12 to 13 (with the consent of the Director of Public Prosecutions) will "*continue to be kept under review*".<sup>3</sup>
3. In circumstances where the law has not been amended to make clear the minimum age of responsibility, there remains a risk of children under the age of 14 being officially processed through the criminal justice system and acquiring a criminal record.<sup>4</sup>

**Recommendation 1. The State should reinstate the provisions setting the age of criminal responsibility at 14, as originally set out in the Children Act 2001.**

### Adoption of new youth justice strategy (paragraph 31(b))

4. IPRT welcomed the State's *Youth Justice Strategy 2021-2027* ('the Strategy') and particularly its focus on diversion, prevention and early intervention, underpinned by children's rights and the use of detention as a last resort.<sup>5</sup> However, IPRT is concerned over proposals to extend the Garda Youth Diversion Project (GYDP) to children aged 8-11 years old.<sup>6</sup> Labelling children as 'criminal' or

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<sup>1</sup> See, [Committee on the Rights of the Child List of issues prior to submission of the combined fifth and sixth reports of Ireland, 18 November 2020](#).

<sup>2</sup> See, [Concluding observations on the combined third and fourth periodic reports of Ireland, 1 March 2016](#), at para.72(a).

<sup>3</sup> See, [The Combined Fifth and Sixth Reports Submitted by Ireland under Article 44 pursuant to the simplified reporting procedure, 2022](#). P.44.

<sup>4</sup> See, Carr, N., Dwyer, C., & Larrauri, E. (2015). Young People, Criminal Records and Employment Barriers. In J. Kenny, & P. Conway (Eds.), *New Directions: Understanding and Improving Employment Pathways in Youth Justice in Northern Ireland* (pp. 7-62).

<sup>5</sup> See, [Youth Justice Strategy 2021-2027](#).

<sup>6</sup> This specific age-range does not appear to have been included within the Strategy itself, but was mentioned in Minister of State James Browne's comments upon the launch of the Strategy, see [Minister Browne launches Youth Justice Strategy 2021-2027, 15 April 2021](#).

'offender' creates additional risk factors for the child and can further drive them into long-term offending behaviour.<sup>7</sup>

5. The Strategy makes limited reference to the rights and needs of children from the Traveller community and minority ethnic groups despite the disproportionate numbers of Traveller children detained in Oberstown Children Detention Campus,<sup>8</sup> and recent indications that Traveller children and those from the African or Black community are overrepresented within the Irish Probation Service.<sup>9</sup>

**Recommendation 2: The State should clarify its proposals to extend the Garda Youth Diversion Project to children aged under 12.**

**Recommendation 3. The State should commit to (i) collecting data on the number of children from the Traveller community and other minority ethnic groups engaged in the youth justice system and (ii) addressing any overrepresentation of such children within the system.**

**Application of the child justice system to all children (paragraph 31(c))**

6. In Ireland, where a child turns 18 while awaiting trial for an offence they committed as a child, they lose the protections of the Children Act 2001 and are instead tried and sentenced within the adult justice system.<sup>10</sup> This is an issue that has been challenged numerous times in the courts, with varying degrees of success<sup>11</sup> and the silence of the legislation on this issue has been noted.<sup>12</sup>
7. The State has indicated that the relevant provisions within the Children Act will be reviewed under the new Strategy<sup>13</sup> and the Strategy recognises that *"the provisions of the Children Act should apply to the processing of an offence with reference to age at the time it is committed, irrespective of the age of the young person when the case actually comes to Court."*<sup>14</sup> This amendment should be progressed without further delay.

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<sup>7</sup> See, [Turnaround Youth: Young Adults \(18–24\) in the Criminal Justice System The case for a distinct approach \(May 2015\)](#), at pp.23-24.

<sup>8</sup> See the reportedly high numbers of Traveller children detained in Oberstown at: [Key characteristics of young people in detention: A snapshot \(Q1, 2019\)](#), at p.6; and [Annual Report 2021](#), at p.10. The indication that these figures are disproportionate is based on census figures for 2016 which suggested that Travellers (adults and children) made up only 0.7% of the population, [Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion](#)

<sup>9</sup> See, ["Sometimes I'm missing the words": The rights, needs and experiences of foreign national and minority ethnic groups in the Irish penal system \(2022\)](#), at p.29.

<sup>10</sup> See an explanation of the current situation in [Wilde v DPP \[2020\] IEHC 385](#), at para.2.

<sup>11</sup> See, [Donoghue v DPP \[2014\] IESC 56](#); [Forde v DPP \[2017\] IEHC 799](#); [Cerfas v DPP \[2022\] IEHC 70](#); and [Furlong v DPP \[2022\] IECA 85](#).

<sup>12</sup> See, [Wilde v DPP \[2020\] IEHC 385](#), at para.2.

<sup>13</sup> See, [The Combined Fifth and Sixth Reports Submitted by Ireland under Article 44 pursuant to the simplified reporting procedure, 2022](#), P.45.

<sup>14</sup> See, [Youth Justice Strategy 2021-2027](#), P.36.

**Recommendation 4.** The State should provide a clear timeline for amendment of the Children Act 2001 to ensure children are dealt with in court according to the age at which the offence was committed (and not the age at which they find themselves before the court).

**Promotion of alternative measures to custody and detention (paragraph 31(d))**

8. While Ireland’s new Strategy provides a welcome emphasis on diversion and alternatives to detention for children, it is important that the State implements these various commitments including extension of the Bail Supervision Scheme and strengthening of Garda policies / procedures for diversion.<sup>15</sup> This will require adequate resourcing of programmes such as the Garda Youth Diversion Project,<sup>16</sup> among others, and clear progress reporting by the Department of Justice.
9. A cross-departmental approach is required to ensure that the response to youth offending is not only seen through a criminal justice lens, but also addressed as a welfare and health issue.<sup>17</sup> The State should provide updates on the cross-departmental work being done to implement the new Strategy.

**Recommendation 5.** The State should provide details on the progress of implementation of the *Youth Justice Strategy 2021-2027*, including the resourcing that has been provided to ensure all commitments are met and the cross-departmental / interagency work that is being done to ensure full implementation.

**Detention conditions (paragraph 31(e))**

10. Oberstown Children Detention Campus Annual Report 2021 highlighted a reduction in the use of single separation<sup>18</sup> since 2016.<sup>19</sup> While welcome, IPRT notes that the recently published inspection report into Oberstown identified concerns about the use of restrictive practices on the campus, particularly in regards managerial oversight of physical interventions and monitoring / oversight of the use of single separation.<sup>20</sup>

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<sup>15</sup> See, [Youth Justice Strategy 2021-2027](#), pp.22-24.

<sup>16</sup> Particularly if the goal of providing national coverage of such projects within two years is to be achieved, see [Report of Proceedings – Garda Youth Diversion Projects Virtual Conference \(2021\)](#), P.25.

<sup>17</sup> This need for interagency cooperation in the delivery of youth justice service was noted as a theme arising in the Garda Youth Diversion Projects Virtual Conference which took place in April 2021, see [Report of Proceedings – Garda Youth Diversion Projects Virtual Conference \(2021\)](#), P.25.

<sup>18</sup> Single separation is a behaviour management tool whereby a young person is separated from their peer group for a period of time.

<sup>19</sup> See, [Annual Report 2021](#), p.18.

<sup>20</sup> See, [Report of Oberstown Children Detention Campus \(2022\)](#), P.33.

11. The 2022 inspection report further identified concerns regarding the lack of specialised substance misuse services for children detained in Oberstown, despite this being “*a feature of many young people’s care needs*”,<sup>21</sup> and previous indications that over two-thirds of the Oberstown population may suffer from substance misuse problems.<sup>22</sup>
12. IPRT further notes that, despite recommendations to include within the new youth justice strategy a commitment to introducing a legal framework that explicitly prohibits solitary confinement of children and governs the use of single separation in Oberstown,<sup>23</sup> the Strategy contains no such measures.

**Recommendation 6. The State must provide an update on the measures being taken to (i) address concerns around the monitoring and oversight of restrictive practices, such as physical restraint and single separation, in Oberstown Children Detention Campus and (ii) improve access to substance misuse support services available to children detained in the Campus.**

**Recommendation 7. The State should update the Committee on plans (if any) to provide a legal framework governing the use of measures such as single separation on detained children and explicitly prohibiting solitary confinement of children in all circumstances.**

**Rehabilitation and reintegration services for children leaving detention (paragraph 31(f))**

13. IPRT welcomes the commitment within the new Strategy to pursue enhanced services that prepare children for their safe return to the community and to ensuring a multiagency service framework that is designed around the needs of children and young people rather than Departmental responsibilities and funding lines.<sup>24</sup> It is also acknowledged that the recent inspection of Oberstown Children Detention Campus found children were “*prepared for leaving Oberstown through effective placement planning processes*” and there were “*strong multi-disciplinary and interagency working practices in place*” (albeit preparation for release was not always possible for those young people placed on short periods of remand).<sup>25</sup>

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<sup>21</sup> Ibid., at p.31.

<sup>22</sup> See 2019 campus statistics, [Key characteristics of young people in detention: A snapshot \(Q1, 2019\)](#), P.8.

<sup>23</sup> See, [IPRT Submission to the Department of Justice on the Draft Youth Justice Strategy 2020-2026](#) (2020), pp.5-6.

<sup>24</sup> See, [Youth Justice Strategy 2021-2027](#), P.28.

<sup>25</sup> See, [Report of Oberstown Children Detention Campus](#) (2022), P.22.

14. Despite these positive commitments, there publicly available information is limited on the outcomes for children leaving custody and the effectiveness of post-release supports. For example, recidivism rates for children leaving detention, do not appear to be routinely recorded in the State at present.<sup>26</sup>

15. The new Strategy's commitments to prioritise research, discussion papers and pilot initiatives that improve insights into recidivism and desistance<sup>27</sup> is welcome to ensure an evidence-based approach to policy-making in this area.

**Recommendation 8. The State should provide a detailed update on its progress in (i) implementing a multiagency service framework for children leaving custody and (ii) developing research and pilot initiatives that give insight into recidivism and desistance of children.**

**Recommendation 9. The State should provide up-to-date figures on the recidivism rates for children leaving Oberstown Children Detention Campus.**

## **Recognition and support for children with a family member in prison**

### **Background**

16. Children with a family member in prison are often described as the 'hidden victims' of the criminal justice system.<sup>28</sup> Despite these children not having committed any offence, they suffer the consequences of imprisonment including stigmatisation and separation from their loved one, alongside the various hardships associated with having a family member in prison.

17. Children may experience a range of negative outcomes as a result of a family member entering prison. These include:

- a. emotions such as loss, grief, confusion, anxiety, shame and isolation;
- b. issues with engaging in education such as poor school attendance, difficulty concentrating and behavioural issues;
- c. financial challenges including loss of income to the family and the burden of increased costs required to visit prisons and sustain their family member in prison; and

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<sup>26</sup> This contrasts with the approach taken to recidivism rates of individuals managed under the Probation Service, which has recorded that in 2016 people aged under 18 who were placed under the management of the Probation Service had the highest level of reoffending (45.6%), see [Probation Re-offending Statistics 2016](#) (2020).

<sup>27</sup> See, [Youth Justice Strategy 2021-2027](#), P.18.

<sup>28</sup> See, [The Scottish Centre for Crime and Justice Research \(SCCJR\), 2015](#).

- d. a range of practical issues that could include losing the family home and disruption to existing care arrangements.<sup>29</sup>

18. Children with imprisoned family members are rarely heard, and they receive very little recognition by the State. In Ireland, there are currently no national services or supports provided by the State specifically for these children and most of the support currently available is provided by the NGO sector.<sup>30</sup> There is also no designated cross-sectoral strategy for children affected by a family member's imprisonment.<sup>31</sup>

**Recommendation 10. All State departments should recognise children with imprisoned parents as a specific cohort in need of support, and at increased risk of negative outcomes, in relevant policies, reports, briefings and papers.**

**Recommendation 11. The State should establish and fund a national support service that can specifically provide information and support to children and families with a family member in prison.**

#### **Measures to protect the rights of children in the context of COVID-19 (paragraph 1(b))**

19. The State has not provided any information on the steps taken to mitigate the impact of COVID-19 restrictions on children with a family member in prison, despite the extremely negative impact that prison visiting restrictions had on this cohort. Throughout 2020 and 2021 the provision of in-person prison visits fluctuated<sup>32</sup> and IPRT's 2021 annual report, *Progress in the Penal System (PIPS)*, noted a significant regress in family contact across the Irish prison estate during the COVID-19 pandemic.<sup>33</sup>

20. For example, as of November 2021, only 2,238 children had physically visited an adult in prison.<sup>34</sup> This represented an almost 80% decrease on the earlier stage of the pandemic, with 11,079 children physically visiting prison in 2020.<sup>35</sup> This loss of contact arguably contravenes the right of children separated from a parent under Article 18 UNCRC.

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<sup>29</sup> See, IPRT (2021). [Piecing It Together: Supporting Children and Families with a Family Member in Prison in Ireland](#). P.11

<sup>30</sup> See for example, [Beford Row Family Project](#) and [New Directions](#)

<sup>31</sup> See, [Progress in the Penal System \(PIPS\), 2017](#). Action 11.3, P.42.

<sup>32</sup> See, [Progress in the Penal System \(PIPS\), \(2021\)](#) P.18

<sup>33</sup> See, [Progress in the Penal System \(PIPS\), \(2021\)](#)

<sup>34</sup> See, [PQ on Prison Service, 24 November 2021](#).

<sup>35</sup> See, [PQ on Prison Service, 24 November 2021](#).

21. When physical visits were resumed in 2021, they remained subject to severe restrictive measures<sup>36</sup> and in February 2022, when COVID-related restrictions were significantly eased in the community, visits to prison continued to take place behind screens with no physical contact permitted between prisoners and family members (despite mandated mask wearing).<sup>37</sup> Since May 2022, many of the restrictions on physical visits have been lifted but the number of in-person visits available to prisoners in closed prisons has not yet returned to pre-pandemic levels.<sup>38</sup>
22. While it is important to highlight the positive initiatives that were introduced by the Irish Prison Service (IPS) during the pandemic to facilitate contact between children and their family members in prison, such as the roll-out of in-cell telephones,<sup>39</sup> introduction of video calls,<sup>40</sup> and the ‘Family Emails’ pilot scheme in Mountjoy Prison,<sup>41</sup> IPRT emphasises that any such measures must be used to supplement rather than replace physical visits.

**Recommendation 12.** The State should provide the Committee with information on any actions taken to address the impact of COVID-19 on children who have a family member in prison.

**Recommendation 13.** The State should commit to commissioning research which examines the impact of COVID-19 on children with a family member in prison in Ireland and identify specific actions / measures which can be taken to address any negative impacts identified.

### **The impact of the national policy framework for children and young people (paragraph 4(b))**

23. *Better Outcomes, Brighter Futures: The National Policy Framework for Children & Young People 2014-2020* (BOBF) committed to ensuring “adequate access by children to an imprisoned parent, in a child-friendly setting”.<sup>42</sup> The recognition of children with imprisoned parents within this framework was welcome, however, IPRT upholds that any framework for children and young people in Ireland should look beyond the limited context of prisons visits when highlighting the distinct adversities and needs of children with imprisoned parents.<sup>43</sup>

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<sup>36</sup> See, [Irish Prison Service News September 14th, 2021](#)

<sup>37</sup> See, Irish Prison Service Website - [Visit a Prison](#)

<sup>38</sup> See, [Irish Prison Service News May 4<sup>th</sup> 2022](#) and Irish Prison Service Website - [Visit a Prison](#). The entitlement pre-pandemic was one visit each week of not less than 30 minutes duration, see [Irish Prison Rules 2007](#). Section 35 (1)

<sup>39</sup> See, [PQ 117 on 02 Feb 2022](#) and [Irish Examiner \(2022\)](#)

<sup>40</sup> Information received in a meeting between the Action for Children and Families of Prisoners Network and the Irish Prison Service on 8 September 2021.

<sup>41</sup> See, [Office of the Inspector of Prisons COVID-19 Thematic Inspection of Mountjoy Men's Prison 1 - 4 March 2021](#)

<sup>42</sup> See, [Better Outcomes, Brighter Futures: The National Policy Framework for Children & Young People 2014 – 2020](#). Commitment 3.22.

<sup>43</sup> See [Piecing It Together](#) report – Rec 6.1 and [IPRT Submission to Department of Children, Equality, Disability, Integration and Youth: Draft State Report to the UN Committee on the Rights of the Child](#)

24. Notably BOBF did not meet its commitment to ensuring adequate access and family contact for children with an imprisoned parent. While this is in part due to the pandemic (discussed above at paragraphs 19-24), it must be noted that issues in family contact for children pre-date March 2020 with the use of screened family visits in 2019<sup>44</sup> and a lack of flexible/weekend visits to prison in 2019,<sup>45</sup> despite indications in 2018 that weekend family visits were available in all prisons.<sup>46</sup>
25. IPRT notes that the new national policy framework for children and young people has been delayed until 2022 “to consider the impact of COVID-19”.<sup>47</sup> IPRT is clear that this new framework must include the experiences of children with a family member in prison during COVID-19 and address the significant negative impact that COVID had on these children.<sup>48</sup>

**Recommendation 14.** The State should ensure that the updated framework for children and young people in Ireland addresses the distinct adversities and needs of children with a family member in prison in Ireland, beyond simply looking at the issue of prison visits.<sup>49</sup>

**Recommendation 15.** The State should use information obtained on the impact of COVID-19 on children to inform the future framework for children and young people in Ireland.

#### **Data collection (paragraph 6)**

26. Despite the State’s indication that there have been “significant steps taken to improve the collection and quality of disaggregated data concerning children’s rights under the Convention”,<sup>50</sup> the State has not taken any measures to collect and record data on the number of children with a family member in prison in Ireland. There further do not appear to be any plans to collect such data despite previous recommendations made by IPRT.<sup>51</sup>
27. IPRT emphasises the importance of collecting and publishing (in an appropriately anonymised manner) this information. Given that we know imprisonment of a family member is among the

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<sup>44</sup>See, [Cloverhill Prison Visiting Committee Annual Report 2019](#). P.4

<sup>45</sup> See, [Progress in the Penal System \(PIPS\) 2019](#). P.52.

<sup>46</sup> See, [PQ on Prison Facilities, Tuesday - 12 June 2018](#).

<sup>47</sup> See, [The Combined Fifth and Sixth Reports Submitted by Ireland under Article 44 pursuant to the simplified reporting procedure, 2022](#).

<sup>48</sup> See, [IPRT’s Action for Children and Families of Prisoner’s Network Submission to the Government Policy Framework for Children and Young People in Ireland, 2022](#).

<sup>49</sup> See [Piecing It Together](#) report – Rec 6.1 and [IPRT Submission to Department of Children, Equality, Disability, Integration and Youth: Draft State Report to the UN Committee on the Rights of the Child](#)

<sup>50</sup>See, [The Combined Fifth and Sixth Reports Submitted by Ireland under Article 44 pursuant to the simplified reporting procedure, 2022](#). P.9

<sup>51</sup> See, IPRT (2021). [Piecing It Together: Supporting Children and Families with a Family Member in Prison in Ireland](#). Rec 5.2. Also See, [Submission to Department of Children, Equality, Disability, Integration and Youth: Draft State Report to the UN Committee on the Rights of the Child](#).P.6.

ten adverse childhood experiences (ACEs) which can have a lasting impact on people into adulthood,<sup>52</sup> it is crucial that the State monitors and identifies those children in need of additional support.

28. Any data that has been collected by the IPS is inadequate as it is only collected on committal to prison, relies upon voluntary disclosure, and does not include details about age or geographic location (which in turn hinders any attempt to map and target service provision).<sup>53</sup> It has been recently estimated that approximately 4,841 children in Ireland have a parent in prison on any given day,<sup>54</sup> but other estimates suggest it may be over 5,000 children each day<sup>55</sup> and over 10,000 children affected each year.<sup>56</sup>

29. The importance of collecting updated figures on the number of children each prisoner has, as well as the age of those children and their primary caregiver, is reinforced by Recommendation CM/Rec (2018) 5 of the Committee of Ministers to Member States concerning children with imprisoned parents ('the CoE Recommendation').<sup>57</sup> The CoE recommendation suggests that prison staff record this data during prison admission.<sup>58</sup> However, it is important that prison staff are upskilled in how to ask for this information in a sensitive manner and inform prisoners on why the information is important and the purposes for which it is being collected.

**Recommendation 16.** The State should ensure the development of a centralised database which records the number of prisoners who have children, as well as the number and age of children each prisoner has. From the information collected, the State should produce aggregated, anonymised data that can be made publicly available to inform policy and service development.

**Recommendation 17.** The State should ensure that prison staff are trained to collect and record information relating to prisoners' children in a sensitive manner, and that prisoners are fully informed of the reasons why such information is being collected.

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<sup>52</sup> See, [Center for Disease Control and Prevention. \(2021\)](#). See also [Turney, K. \(2018\)](#) for updated information.

<sup>53</sup> See, [PQ on Prisoner Data, 29 April 2021. On 29 April 2021.](#)

<sup>54</sup> See, [Children of Prisoners Europe \(COPE\) – Statistics for Ireland.](#)

<sup>55</sup> See, [PQ on Children of Prisoners, 5 May 2021.](#)

<sup>56</sup> This figure is an estimate, based on the number of children with a parent in prison on any given day and the number of committals to prison each year.

<sup>57</sup> See, [CM/Rec\(2018\)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents.](#)

<sup>58</sup> See, [CM/Rec\(2018\)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents.](#)

### **Non-discrimination (paragraph 10)**

30. Article 2 UNCRC makes clear that states must ensure that the rights of the child are protected without discrimination based on the status of their parents, legal guardians or family members and that States should take “*appropriate measures*” to ensure this.<sup>59</sup>
31. According to the CoE Recommendation, states are responsible for ensuring that awareness is raised of the specific needs of children with imprisoned parents to reduce the risk of prejudice and discrimination.<sup>60</sup> Previous meetings of the Committee dating back to 2012 have also highlighted issues facing children with a family member in prison and the importance of tackling stigmatisation, social exclusion and discrimination through targeted education programmes.<sup>61</sup>
32. Despite this, there is no national educational programme in schools or elsewhere in Ireland that addresses stigmatisation of this cohort of children. There is further no training for teachers on the impact of imprisonment on children and families, and how to respond to the needs of this cohort of children in the classroom. This is despite research demonstrating the role that teachers can play in supporting children with a family member in prison to overcome adversities and stigma.<sup>62</sup>
33. The CoE Recommendation also highlights the role professionals can play in educating the public on the impact of imprisonment on children and families, and advocates for the public to be provided with “*reliable and up-to-date data and good practice examples*” to raise awareness of this cohort of children and reduce discrimination.<sup>63</sup> Anti-bullying strategies and teacher training programmes, developed by organisations such as Families Outside in Scotland, can further help reduce stigmatisation and discrimination.<sup>64</sup>

**Recommendation 18. The State should ensure that measures are taken to reduce discrimination against children with a family member in prison in Ireland. These measures should include:**

- i. Training professionals working with children, particularly primary and secondary school teachers, on the impact of imprisonment on children and how to respond to the needs of these children in as sensitive a manner as possible.**
- ii. The development and incorporation of lessons and resources about the potential impact of imprisonment on children and families into the primary and secondary school curriculums.**

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<sup>59</sup> See, [UN Convention on the Rights of the Child, Article 2](#)

<sup>60</sup> See, [CM/Rec\(2018\)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents.](#)

<sup>61</sup> See, [Robertson, O., \(2012\).](#)

<sup>62</sup> See, [Children of Prisoners Europe \(COPE\). \(2017\)](#)

<sup>63</sup> See, [CM/Rec\(2018\)5 of the Council of Europe of 4 April 2018 to member States concerning children with imprisoned parents.](#)

<sup>64</sup> See, [Families Outside \(2012\)](#)

- iii. **The development and implementation of anti-bullying policies to address the bullying of children who have a family member in prison.**

**Best interests and respect for the views of the child (paragraph 11; paragraph 13)**

34. Article 3 UNCRC upholds that the best interests of the child must be the “*primary consideration*” in any actions concerning children that are taken by “*public or private institutions, courts of law, administrative authorities or legislative bodies.*”<sup>65</sup> Furthermore, Article 12 states that the child is “*capable of forming his or her own views*” and has the right to have those views heard in all matters which affect them including in “*any judicial and administrative proceedings*” .<sup>66</sup>
35. While legislative measures such as the Child and Family Relationships Act 2015 and the Domestic Violence Act 2018 “*provide for a child’s views to be heard in court proceedings*”,<sup>67</sup> no legislative measures are in place to ensure that the child’s views or best interests are heard in proceedings concerning the sentencing of a child’s primary caregiver following their conviction.
36. While media reports in Ireland suggest that parental responsibilities may be considered by judges when handing down sentences,<sup>68</sup> there is no requirement on judges to factor this into their decision-making nor is there any comprehensive data on how often such matters are taken into account.

**Recommendation 19. The State should fully incorporate UNCRC into Irish law, to ensure that public bodies comply with the Convention in carrying out their functions and to allow citizens rely directly upon the provisions of the Convention before Irish courts.**

**Recommendation 20. New sentencing guidelines being developed by the newly formed Sentencing Guidelines and Information Committee,<sup>69</sup> should include a requirement that the ‘best interests’ of the child, and the impact of imprisonment on the child, is considered in circumstances where the primary caregiver may be imprisoned.<sup>70</sup>**

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<sup>65</sup> See, [UN Convention on the Rights of the Child, Article 3](#)

<sup>66</sup> See, [UN Convention on the Rights of the Child, Article 12](#)

<sup>67</sup> See, [The Combined Fifth and Sixth Reports Submitted by Ireland under Article 44 pursuant to the simplified reporting procedure, 2022.](#) P.4

<sup>68</sup> See, examples from Irish media [here](#) and [here](#).

<sup>69</sup> See, [Sentencing Guidelines and Information Committee](#) (as established by the [Judicial Council Act 2019](#)).

<sup>70</sup> See, IPRT (2021). [Piecing It Together: Supporting Children and Families with a Family Member in Prison in Ireland.](#) Rec 4.1.

**Recommendation 21.** The State should ensure the development and rollout of judicial training in relation to children’s rights and judges’ role in decision-making where a child is affected.<sup>71</sup>

**Recommendation 22.** The State should consider implementing a formal process whereby the child’s voice can be heard in all judicial decisions, including sentencing proceedings, that may affect them.<sup>72</sup>

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<sup>71</sup> See, [Action for Children and Families of Prisoner’s Network Submission to the Open Consultation of the Judicial Planning Working Group](#)

<sup>72</sup> See, [Action for Children and Families of Prisoner’s Network Submission to the Open Consultation of the Judicial Planning Working Group.](#)