



**Statement of the Irish Human Rights Commission (National Human Rights Institutions) to the Human Rights Council
Adoption of the UPR Report on Ireland, 15 March 2012**

This statement is delivered on behalf of the A Status Irish Human Rights Commission (IHRC), Ireland's National Human Rights Institution.¹

The IHRC welcomes the opportunity to present this statement on the occasion of the adoption of the Working Group's UPR Report on Ireland. We recognise and welcome the active involvement of Irish Civil Society in this process.

We believe that NHRIs have a unique role in linking the international human rights system with the national level and the work of National Institutions is key to ensuring the national application of international human rights standards, including the recommendations of the UPR process. **The IHRC very much welcomes the role afforded to NHRIs by the Human Rights Council and the attention given to the issue of creating strong, independent, A Status institutions.**

We also welcome the wide range of issues raised and recommendations made by the Working Group in Ireland's UPR Report. We believe that the Working Group's Report can act as a template for progressing human rights issues in Ireland, and we hope that Ireland's progress on implementing the recommendations will underscore Ireland's application for the Human Rights Council.

Role of the IHRC in UPR Process

We welcome the engagement made by the Irish Government to date in the UPR process. The IHRC submitted a report for the UPR process in March 2011, prior to which we held consultations and invited NGOs, Civil Society and Members of the Public to make submissions on the UPR process. We also provided online information including a template for submissions, and worked in our independent capacity with the State in their consultations. We were also pleased to appear in an independent capacity at the State's consultations with civil society, held in a number of Irish cities and towns. The IHRC also issued a set of proposed voluntary commitments to the Government, attended the UPR hearing and held a side event.

¹ The IHRC is Ireland's National Human Rights Institution. Established under Statute in 2000, the IHRC has 'A' Status Accreditation with the International Coordinating Committee of NHRIs. The oral statement is delivered by Ms Kirsten Roberts, Acting Deputy Chief Executive.

Recommendations regarding the National Human Rights Institution

One of the key concerns of the IHRC is the degradation of the human rights, equality and anti-racism protection infrastructure in Ireland over the past four years. These cuts have undermined human rights promotion, monitoring and access to redress for people in Ireland. Statutory bodies working in this area including the IHRC and Equality Authority were among the first to be cut at the very start of the economic crisis. There has been no reversal of these cuts.

While we welcome Ireland's acceptance of the recommendations to reinforce the independence and capacity of the Irish Human Rights Commission to fulfil its mandate effectively in accordance with the Paris Principles, there must be steps taken to ensure that the future Human Rights and Equality Commission has adequate and sufficient resources, and we stress the need for specific measures to guarantee such resources.

At present, the Government is finalising proposals to merge the IHRC and the Equality Authority. We are concerned that this merged body – which is mooted to retain the staff, functions and budget of the existing two bodies will not be provided with sufficient powers, functions and crucially human and financial resources to ensure that Ireland retains a strong, independent, A Status NHRI. We also highlight that this merger is an opportunity for Ireland to endow this new body with the powers and functions needed under OPCAT and the Convention on the Rights of Persons with Disabilities. **We urge particular attention to the developments around Ireland's NHRI in the follow up on Ireland's UPR and in the process of Ireland's application for Membership of the Council.**

Ratification of Human Rights Instruments

The IHRC welcomes the acceptance of a wide range of recommendations by Ireland including, in relation to the ratification of key international instruments including OPCAT, the Disability Convention and the Migrant Workers Convention, OP-ICESCR, OP-CRC and the CED. We would highlight for the Council that a timetable for early ratification of these Conventions be provided by the State along with a commitment that these instruments would be ratified in a manner which allows for their justiciability before the Irish Courts.

We consider that it is regrettable that Ireland has not accepted the recommendation to withdraw its reservation under Article 4 of CERD. The IHRC is not convinced that the reservation is necessary and has previously called on the State to remove this reservation.

The IHRC considers that Ireland needs to make serious, sustained and quantifiable efforts in a number of core areas raised in the Working Group Report. These areas include:

The need for a National Action Plan on Human Rights

We note that Ireland stated that it would explore the possibility of developing an integrated and comprehensive National Action Plan for Human Rights. We consider that such a plan is important to ensure that Ireland has a clear human rights policy and stated commitment to human rights at the national level that can mainstream human rights in law, policy and practice.

Irish Prison Conditions

We welcome the commitments made by the State in this area, and note that some positive progress is being made in addressing overcrowding, sanitation and other prison conditions at prisons such as Cork and Mountjoy. However, we are concerned that there has been no apparent movement on the ratification of OPCAT – including holding a national stakeholder consultation on the issue. We are also concerned that there has been no apparent progress on extending the remit of the Ombudsman for Children to include children in prison. We are further concerned at the ongoing detention of children in adult prisons and note that funding alternative facilities has not been allocated.

Disability rights and legal capacity legislation

We welcome that in addition to ratifying the Disability Convention, Ireland has committed to take measures to ensure people with disabilities have equal access, to education, employment, housing, transport, services, public places, and cultural life. However, we note that capacity legislation providing for supported decision-making has not yet been enacted, while the situation of “voluntary compliant patients” and children and the issue of “consent” under the Mental Health Act 2001 should be addressed.

Recognition of Traveller ethnicity

We welcome Ireland’s commitment to strengthen the rights of Travellers with special focus on access to health care, education, housing, and ensuring greater Traveller participation in decision making processes. However, we would highlight that concerted action on these issues have been outstanding for many years. In addition, there needs to be greater effort on the part of the State to ensure real and meaningful participation of Travellers in all decisions that affect them, including in relation to the issues of Traveller ethnicity and accommodation. While we welcome the Government’s statement that it is currently giving serious consideration to the question of recognising Traveller ethnicity, it is regrettable that this recommendation has not been accepted.

Immigration

We welcome that Ireland has committed itself to establishing a consolidated immigration and asylum framework which includes an independent appeals body which will ensure that decisions on the necessity for international protection will be reviewable and subject to independent judicial supervision. However, we are concerned that there is still no comprehensive human rights based system of immigration in Ireland, and that legislation in this area has been under development since 2006. There is also an urgent need to address the conditions experienced by people in ‘Direct Provision’ accommodation, which requires urgent reform to ensure no one is kept in this system in excess of one year and that there is an independent review process for complaints made by people in Direct Provision accommodation.

Conditions for Migrant Workers

We welcome that Ireland has pledged to improve existing legislation to protect the conditions of migrant workers. We note that there is an urgent need for greater legislative and policy protections for vulnerable migrant workers and in particular those working in the hospitality industry, those working in agriculture and women migrant workers, particularly those working in domestic households. Migrant workers

should be also better informed about their rights and the protections available to them.

The Rights of Children

We welcome the decision to hold a Constitutional referendum on children's rights this year thus ensuring a comprehensive and effective incorporation of children's rights into domestic law in line with the Convention on the Rights of the Child. To ensure compliance with the Convention on the Rights of the Child, the Constitutional amendment should include an express reference that the best interests of the child shall be a primary consideration and be justiciable. The amendment should expressly incorporate children's right to participation as set out in Article 12 of the Convention.

The need to combat Racial Discrimination

We welcome that Ireland has agreed to take more effective measures to combat racial discrimination, xenophobia and religious intolerance, including the commitment to investigate, prosecute and punish accordingly any persons involved in racial discrimination acts. The IHRC considers that in order to fulfil its international obligations the State should legislate for the role of monitoring and recording racist incidents to an independent body. Any such role must include additional resources as a prerequisite. The Government should also ensure the full application of anti-discrimination laws and undertake a review of the current system of investigating and prosecuting racist incidents. The Government should also renew the National Action Plan Against Racism (NAPAR), which came to an end in 2008, or replace it with a similar programme.

Women's Rights including the Magdalene Women

There is a need to redress the gender imbalance in Irish politics and promote the participation of women in the national parliament (Oireachtas) as recommended by the CEDAW Committee, ensuring the availability of sufficient affordable childcare. There is also a need to address historical gender issues including the treatment of women and girls in the Magdalene Laundries.

Further measures to address Domestic Violence

There is a need to ensure the effective implementation of the *National Strategy on Domestic, Sexual and Gender-Based Violence 2010-2014*, including the implementation of the specific targets and timeframes set out in the Strategy. In line with the recommendations of the CEDAW and CERD Committees, the State should support sustained training and awareness-raising initiatives on the issue of domestic violence amongst public officials, the judiciary, health professionals and members of the public.

Human Rights in International Aid and Trade

We welcome that Ireland has accepted the recommendation to continue to allocate financial assistance for developing countries in the framework of Official Development Assistance and meet the commitment made in this regard at the international level. We also welcome the Department of Foreign Affairs' current review of its White Paper on Irish Aid. This review process has been consultative and public and the process undertaken for the review is particularly welcome. The IHRC also welcomes the commitment by Irish Aid to promote human rights within development policy and to work towards enhancing the role of National Human Rights Institutions in its programme countries. In this regard, we would note that Irish Aid is currently funding a Capacity Development Partnership Project within the IHRC to allow the IHRC to engage in

partnership capacity development with National Human Rights Institutions in Irish Aid Programme Countries.

The need for Human Rights Education and Training

We welcome that Ireland has agreed to continue to provide support for human rights education and training domestically in order to enhance awareness and respect for human rights. It is of note that the Committee on the Elimination of Racial Discrimination (CERD) in its most recent Concluding Observations on Ireland the Committee called on the Government to support the IHRC's human rights education and training programme. The Government should develop a National Action Plan for Human Rights Education and Training (HRET). It should also introduce a programme of HRET within the civil and public service, using the tested model developed by the IHRC. The State could commit to including human rights training as a component of all Departments and Services strategies and commit to providing a copy of the IHRC Human Rights Guide for the Civil and Public Service to all employees.

The IHRC is also concerned that there is insufficient commitment to and progress on the following areas:

- **Health:** Including providing for a clear justiciable right to health in Irish legislation.
- **Poverty:** including the need to introduce the principle of non-retrogression into all economic policies so that State bodies must undertake an assessment of the impact of welfare and service related decisions on people in vulnerable and disadvantaged situations.
- **Education:** Including addressing issues of access to education for all children in Ireland, regardless of religious or philosophical belief.

We refer Members of the Council to our submission on Ireland's UPR in which we highlight our concerns across these issues.

We highlight for the Council that the Government is proposing to hold a Constitutional Convention to review Ireland's 1937 Constitution. We hope that the Government will take the opportunity to reformulate the Irish Constitution based on international human rights standards, and have made a submission to the Government to that effect.

As Chair of the European Group of NHRIs from 2006-2011 and members of the International Coordinating Committee of NHRIs, we also take this opportunity to call on Member States to continue to strengthen their commitment and support to NHRIs both at the national and international level, including, where not already undertaken, establishing A Status Institutions.

Finally, I would refer the Council to the longer written statement on the IHRC's concerns, available in the room.

Thank you Madame President.

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