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# The progress of the Assembly's monitoring procedure (January-December 2017) and the periodic review of the honouring of obligations by Estonia, Greece, Hungary and Ireland

## Periodic review: Ireland

**Report**[1]
Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)
Rapporteur: Mr Cezar Florin PREDA, Romania, Group of the European People's Party

*Summary*

All member States of the Council of Europe that are not under a monitoring procedure *sensu stricto*, or engaged in a post-monitoring dialogue, are the subject of a regular periodic review by the Monitoring Committee of the honouring of their membership obligations to the Council of Europe. In this report, the committee presents the periodic review on Ireland. The committee concluded that Ireland is generally fulfilling its membership obligations to the Council of Europe and, overall, its democratic institutions function in line with the standards of the Council of Europe. However, a number of concerns were raised, and recommendations made in that respect, that deserve the prompt attention of the authorities.

1. See also Doc. 14450 Part 1, Part 2, Part 3 and Part 4.

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**Explanatory memorandum by Mr Cezar Florin Preda, rapporteur**

## 1. Introduction

### *1.1. Overall context*

1. The Republic of Ireland seceded from the United Kingdom and became a fully independent State in 1949, after being the Irish Free State established in 1922 as a dominion of the British Commonwealth of Nations following the Irish War of Independence. It has a population of 4.7 million (2016 census) and an area of 70 000 km². 84% of the population is Roman Catholic.[2] The Catholic Church has a significant though declining influence in society.

2. Ireland is a founding member of the Council of Europe (since 5 May 1949). It became a member of the European Union in 1973, and of the eurozone in 1999. It is not part of the Schengen area.

3. Ireland experienced a period of rapid economic expansion (known as the "Celtic Tiger period") from 1995 to 2008, based on modern knowledge economy, services and high-tech industries. However, in 2008 it faced an unprecedented financial crisis and an economic depression in 2009, marked by a sharp decline in the construction industry, the collapse of the banking system and a 3% fall of gross domestic product (GDP) in 2008 and 7.1% in 2009. As a result, there was a sharp rise in unemployment from 4.5% in 2007 to almost 12% in 2009 and the State deficit increased to an estimated 31% of GDP.[3]

4. As a consequence, in November 2010, Ireland entered into a bailout programme with the European Union and the International Monetary Fund (IMF),[4] receiving loans subject to strict conditions aimed at balancing the budget. A National Recovery Plan (2011-2014) was introduced, with the aim of reducing the deficit to below 3% of GDP by 2014, mainly by reducing public expenditure. The then Council of Europe Commissioner for Human Rights, Thomas Hammarberg, expressed at that time his concern about ongoing and future budgetary measures that could "have a severe impact on Irish society, affecting in particular vulnerable groups".[5]

5. Ireland has, at macro-economic level, been recovering from this crisis. In 2013, it became the first country in the eurozone to exit an international bailout programme following the 2008 economic crisis. Ireland has had since 2014 the fastest growing economy in the eurozone. It ranks amongst the wealthiest countries in the world in terms of GDP per capita and in 2016 was ranked the eighth most developed nation in the world by the United Nations Human Development Index.[6]

6. The impact of the financial crisis and the austerity measures can however still be felt on individuals and society. The report produced in March 2017 by Nils Muižnieks, the Commissioner for Human Rights, shows in a striking way how the financial crisis has impacted the most vulnerable groups (notably women, Travellers, children,[7] migrants, etc.). This issue will be elaborated upon later in this report.

7. The financial crisis has also had repercussions on the structure of State institutions and public services. In 2014-2015, also for economic reasons, the Irish Human Rights Commission and the Equality Authority were merged into a new and enhanced Irish Human Rights and Equality Commission (IHREC), while the Equality Tribunal, the Labour Relations Commission, Rights Commissioners, the National Employment Rights Agency (NERA) and the Employment Appeals Tribunal were merged and replaced by the Workplace Relations Commission.

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2. The Church of Ireland (including Protestant religions) represents 2.93% of the population, Muslim 1.1%, Orthodox 0.98%. 5.88% of the population say they have no religion.
3. CommDH(2011)27, report by Thomas Hammarberg, Commissioner for Human Rights, following his visit to Ireland from 1 to 2 June 2011. Issue reviewed: Human rights of vulnerable groups in times of austerity budgets.
4. In 2010, Ireland received 85 billion euros of financial support from the European Union and the IMF and some additional bilateral loans from the United Kingdom, Sweden and Denmark. In: CPL(25)5FINAL, 31 October 2013, Local democracy in Ireland.
5. CommDH(2011)27.
6. http://hdr.undp.org/en/countries/profiles/IRL.
7. A shocking fact noted by the Commissioner highlighted that "worryingly, child poverty rates have dramatically increased since 2008" in Ireland: in 2014, 11.2% of children (compared to 9.3% in 2011) were living in consistent poverty. "What is more, food poverty has been exacerbated by the recession. Overall, 22% of children report having gone to school or to bed hungry because there was not enough food at home". Report by Nils Muižnieks, Commissioner for Human Rights, following his visit to Ireland from 22 to 25 November 2016, CommDH(2017)8, 29 March 2017.

### *1.2. Impact of "Brexit"*

8. Another matter of concern is the United Kingdom's exit from the European Union ("Brexit"), which was initiated in March 2017 by the United Kingdom following the referendum of 11 May 2016. It could have significant political, social and economic impacts on Ireland, which interacts closely with the United Kingdom, with which it shares a land border. It should be noted that in Northern Ireland the "Remain" vote (55.7%) was the third highest in the country.[8]

9. Economic integration with Northern Ireland has risen substantially since the Good Friday Agreement,[9] facilitated by a range of joint institutions, i.e. the North-South Ministerial Council (which brings together Irish Ministers and Ministers from the Northern Ireland Executive) and the British–Irish Council (which brings together British and Irish Ministers and their counterparts from Scotland, Wales, Northern Ireland, the Isle of Man and the Channel Islands). The Common Travel Area established by the Good Friday Agreement could be affected by Brexit (there were 7 600 cross-border commuters from Northern Ireland and 12 100 from the Republic of Ireland in 2015[10]).

10. From the Irish perspective, a "hard Brexit" could result in a 30% drop in exports to the United Kingdom, add 20 billion euros to the national debt over the next decade and result in 40 000 job losses. The sharp fall of the sterling pound since the announced Brexit, as well as the potential impact of tariffs on trade and lengthy border crossings after Brexit could harm Irish companies exporting to the United Kingdom.[11]

11. It is yet to be seen how the Brexit might impact on Irish public finances and services, impacts which might have an effect on the protection of human rights, despite the fact that the Good Friday Agreement enabled enhanced trans-border co-operation on human rights issues. It contained a commitment to human rights equivalence between the two jurisdictions. The impact of Brexit on this condition remains ambiguous.[12]

### *1.3. Relations between Ireland and the Council of Europe at a glance*

12. Ireland has ratified 122 Council of Europe conventions since its accession and signed 18 additional conventions, including the Council of Europe Convention against Trafficking in Human Organs (CETS No. 216) and Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210) in 2015. We strongly encourage the Irish authorities to consider ratifying these two conventions. There are currently 15 applications (out of a total of 79 750 applications) pending before a judicial formation of the European Court of Human Rights (as at 1 October 2017). There were two resolutions adopted by the Committee of Ministers in 2013, five in 2014 and none since 2015.

13. This periodic review report was drafted in line with Resolution 2018 (2014) on the progress of the Assembly's monitoring procedure (October 2013-September 2014) and the explanatory memorandum approved by the Monitoring Committee on 17 March 2015. It will review the challenges faced by Ireland in the field of democracy, human rights and the rule of law, based on the most recent findings of the monitoring mechanisms of the main Council of Europe conventions, the findings of the Parliamentary Assembly and the Commissioner for Human Rights and, when relevant, the reports prepared by other international instances and representatives of civil society and non-governmental organisations (NGOs).

14. This report does not claim to be an exhaustive research on the country but an analysis of the country's developments with regard to Council of Europe standards. It more specifically focuses on major issues identified by the rapporteur, based on geopolitical, political and social developments as well as reports of the monitoring bodies. In that context, I decided to focus this report on the latest developments in the field of democracy, the fight against corruption and the situation of human rights of women, Irish Travellers, Roma and asylum seekers. I would like to thank the authorities and the members of the Irish delegation to the Parliamentary Assembly who provided, in September 2017, extensive comments on my preliminary draft report.[13] In the light of some of these comments, I would like to point out that definition and interpretation of human rights used in this report are based on the European Convention of Human Rights (ETS No. 5) and its

8. www.telegraph.co.United Kingdom/news/0/how-would-brexit-affect-northern-ireland-and-scotland.
9. http://bruegel.org/2016/12/the-impact-of-brexit-on-northern-ireland-a-first-look/. The Good Friday Agreement was signed in 1998. Full text of the agreement available here.
10. Eurostat figures, cited in: http://bruegel.org/2016/12/the-impact-of-brexit-on-northern-ireland-a-first-look/.
11. Figures given by the Irish Department of Finance in: https://www.rte.ie/news/video/2017/0329/863271-brexit-ireland/.
12. AS/Mon (2017) 23. Comments provided by Senator Alice-Mary Higgins (Independent).
13. Comments provided by the authorities and the Irish delegation to the Parliamentary Assembly, AS/Mon (2017) 23.

interpretation by (i.e. case law of) the European Court of Human Rights as well as the standards laid down by the Council of Europe in various legal instruments, notwithstanding the margin of appreciation that States may enjoy on certain societal issues.

## 2. Democracy

### *2.1. Democratic institutions*

15. Ireland is a parliamentary democracy. The Parliament – called the Oireachtas – has two Houses: the House of Representatives (Dáil Éireann) with 158 members[14] (called Teachtaí Dála (TD)), elected for a five-year mandate using proportional representation with a single transferable vote,[15] and the Senate (Seanad Éireann), which has 60 members, 11 of whom are nominated by the Head of the Government (Taoiseach). The rest are elected from vocational panels and by national universities. The Seanad can initiate or revise legislation, but the Dáil can reject their amendments and proposed legislation.

16. The Head of the Government is the Taoiseach. The Tánaiste is the Deputy Prime Minister. The Taoiseach and the Ministers collectively form the government under the Irish Constitution, and they hold executive power.

17. The President of Ireland (Uachtarán na hÉireann) is the Head of State with a largely ceremonial role. He/she is directly elected by the people for a seven-year mandate renewable once. Michael D. Higgins was elected President on 29 October 2011. He formally appoints the Taoiseach (Head of Government) and other ministers designated by the parliament (without the right to decline appointments) and accepts their resignations.

18. Ireland's two main parties — Fianna Fáil and Fine Gael — do not differ widely in ideology but represent the successors of opposing sides in the nation's 1922-23 civil war. Other key parties include the Labour Party, Sinn Féin, and the Green Party. Fianna Fáil dominated politics after Ireland became independent, holding power for 61 out of 79 years before it was ousted in 2011 due to corruption scandals and mismanagement of the 2008 economic crisis. The Fine Gael–Labour coalition led by Enda Kenny then held two thirds of the seats.[16]

19. The 2016 parliamentary election campaign focused on the economic recovery process initiated after the 2008 crisis. The elections resulted in a hung parliament. The outgoing coalition saw a sharp decrease in their seats while the opposition Fianna Faíl, led by Mr Micheál Martin, more than doubled its seats to 44, followed by the Sinn Fein (23 seats) and the Independents (19 seats). The rest of the seats were allocated to the "Anti-Austerity Alliance – People before profit" (6 seats), the "Independents 4 change" (4 seats), the Social Democratic Party (3 seats) and the Green Party (2 seats). On 29 April 2016, after 63 days of negotiation, Fine Gael and Fianna Fáil reached an agreement about a Fine Gael minority government. On 6 May 2016, the House of Representatives re-elected Enda Kenny as Prime Minister. On 14 June 2017, Leo Varadkar was elected Taoiseach, replacing Enda Kenny after winning the Fine Gael leadership contest.

20. The local administration consists of 114 local authorities, with a wide range of competences, including housing, transport, water supply, waste management, education, health and welfare.[17] In 2013, the Council of Europe Congress of Local and Regional Authorities noted Ireland's commitment to move from an almost fully

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14. The statutory number of members in the House was reduced from 166 to 158, based on the Constituency Committee Report 2012.

15. According to this system, each voter receives a ballot paper containing the names of all the candidates in his/her constituency. He/she votes for one of these by writing the figure 1 opposite the name of his/her choice; the voter is then at liberty to indicate an order of preference for the other candidates by adding the figures 2, 3, 4, etc. against their names. At the opening of the count, the ballot papers are thoroughly mixed and sorted according to the first preferences recorded. The total number of valid papers is then computed, and from that figure the electoral quota is calculated through division by the number of seats to be filled, plus one. Candidates who obtain a number of first preferences equal to or greater than this quota on the first count are declared elected. If no candidate has reached the quota, the candidate who received the lowest number of votes is eliminated and his/her votes are transferred to the candidate for whom a second preference is recorded. If a candidate receives more than the quota required for election, the surplus votes are transferred proportionately to the remaining candidates in accordance with the subsequent preferences expressed by the electors. When the number of remaining candidates neither elected nor eliminated equals the number of vacancies to be filled, those candidates are declared elected, although they may not have reached the quota. www.ipu.org/parline-e/reports/2153_B.htm.

16. https://freedomhouse.org/report/freedom-world/2016/ireland.

17. http://eu2013.ie/ireland-and-the-presidency/about-ireland/irishpoliticsandgovernment/irishpoliticalsystem/.

centralised system to a certain level of decentralisation, through an ambitious Action Programme adopted in October 2012. Constitutional protection of local self-government is rather weak. Local governments can still not be said to manage a substantial share of public affairs, the administrative supervision of their activities by the central level remains high and consultations with local authorities and their associations are not systematic or sufficiently regulated. In addition, local authorities have very limited powers to levy taxes or to set rates within the limits of the law. The Congress encouraged the Irish authorities to implement the Action Programme rapidly with a view to devolving more powers and financial autonomy to local governments and improving the financial equalisation procedure. The authorities were equally encouraged to continue in the existing regional development efforts and to develop procedures and mechanisms of consultation with local and regional authorities on matters concerning them directly, and to sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207).[18]

21. In the May 2014 local elections, Sinn Féin won 159 of 949 contested seats, a gain of 105 seats since 2009. That put the party in third place behind Fianna Fáil and Fine Gael, which remained the leading parties at the local level, while Labour came in fourth, sustaining heavy losses.[19]

### *2.2. The constitutional reforms initiated in 2012*

22. In 2012, a Constitutional Convention was established to discuss proposed amendments to the Constitution of Ireland, which were proposed and adopted by the two houses of parliament. Both the European Commission against Racism and Intolerance (ECRI) and the Advisory Committee for the Framework Convention for the Protection of National Minorities encouraged the government to ensure that the Constitutional Convention took into account the diversity of Irish society[20] and included the participation of migrants and the Traveller community.[21]

23. The Convention was composed of 100 members: one chairperson, 29 members of parliament in proportion to party strength; four representatives of Northern Ireland political parties; and 66 randomly selected citizens of Ireland. The Convention reached its conclusions and recommendations in March 2014, producing 38 recommendations.[22]

24. The work of the Convention focused notably on eight areas: reducing the presidential term of office to five years and aligning it with the local and European elections; reducing the voting age to 17; reviewing the Dáil electoral system; giving citizens resident outside the State the right to vote in presidential elections at Irish embassies, or otherwise; providing for same-sex marriages; amending the clause on the role of women in the home and encouraging greater participation of women in public life; increasing the participation of women in politics; removing the offence of blasphemy from the Constitution

25. The government agreed in 2015 to give a follow-up to four of the 38 recommendations made by the Constitutional Convention and to initiate referenda in some cases:

– in May 2015, referendum voters approved the extension of marriage rights to same-sex couples. The Constitution was duly amended in August;

– the proposal to lower the minimum age for presidential candidates from 35 to 21 years was rejected by referendum by 73% to 27%;

– in October 2014, the government announced plans to hold a referendum on removing the offence of blasphemy from the Constitution and repealing the 2009 Defamation Act, which made blasphemy punishable by heavy fines.[23] This referendum was postponed however, and not rescheduled before the May 2016 elections.

26. On 26 September 2017, the government agreed on an indicative timetable for a number of referendums on constitutional amendments and reforms to local government, arising from the work of the Citizens' Assembly, the Convention on the Constitution, and the Programme for a Partnership Government: a

18. CPL(25)5FINAL, 31 October 2013, Local democracy in Ireland.
19. https://freedomhouse.org/report/freedom-world/2016/ireland.
20. CR(2013)1, paragraph 16.
21. Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on Ireland adopted on 10 October 2012, published on 19 April 2013, ACDC/OP/III(2012)006, paragraph 122.
22. See Appended D of the Report of the Constitutional Convention. A summary of the follow-up given to these recommendations is to be found here: https://en.wikipedia.org/wiki/Constitutional_Convention_(Ireland).
23. https://freedomhouse.org/report/freedom-world/2016/ireland.

referendum on the Eighth Amendment (Article 40.3.3) (in May or June 2018, see below); referenda on Blasphemy (Article 40.6.1) and "Women's life within the home" (Article 41.2.1) in October 2018; a plebiscite on directly elected executive mayors (October 2018); and referenda on Divorce, Extending the Franchise at Presidential Elections to Irish Citizens Resident outside the State, and Reducing the voting age to 16 in June 2019.[24]

### *2.3. Promotion of the participation of women in public life*

27. Following the adoption of the Amendment to the Electoral (Political Funding) Act in 2012, parties must ensure that at least 30% of their candidates in the election are female and at least 30% are male. Failing to respect the quotas will result in their State funding being cut by half. This ratio will increase to 40% from 2023 (i.e. seven years from the 2016 general election).[25] All parties except "Direct Democracy Ireland" fulfilled this condition in the 2016 elections. This led to an increase of 15% in the number of women elected in Dáil (i.e. 22% of the 158 members of parliament).

28. Another positive step to improve gender mainstreaming was the introduction of the Public Sector Duty by the Irish Human Rights and Equality Commission Act 2014, requiring all public bodies to eliminate discrimination, promote equality of opportunity and treatment, and protect human rights when exercising their functions. In addition, the Programme for Partnership Government 2016 was introduced, which included a commitment to Gender and Equality proofing of budget and policy processes. This commitment is to be welcomed, but it still needs to be fulfilled.[26]

29. However, austerity measures have led to restrictions in public budgets, a reduction of the budget and remit of structures devoted to women's rights, and a reduction of the funding of women's rights NGOs.[27] This resulted in some NGOs closing while others have been forced to cut back on staff, services provided or advocacy work. The Committee of Social Protection has put forward proposals to remedy the disproportionately high rates of deprivation among lone parents, predominantly mothers.[28] Austerity measures have also disproportionally impacted women's pensions.[29]

## 3. Rule of law: the fight against corruption

30. Ireland slipped one place on Transparency International's Corruption Perception Index for 2016. The findings show a fall in Ireland's ranking in the Index since 2015 from 18 to 19 out of 176 countries, with a score of 73.[30]

31. In 2009, the Group of States against Corruption (GRECO) stated that, overall, the criminal justice regulations in Ireland complied with the requirements of the Council of Europe Criminal Law Convention on Corruption (ETS No. 173), which was ratified by Ireland already in 2003. GRECO also acknowledged that since then, a number of institutions had been created to combat corruption and the legislation strengthened, such as the Freedom of Information Act in 1997 and the Ethics Acts 1995-2001, or the Oireachtas (Inquiries, Privileges and Procedures) Act 2013, which established a statutory framework for parliamentary inquiries into matters of significant public importance.

32. This followed the disclosure of a major case of alleged corruption in the 1990s involving politicians (i.e. councillors in Dublin County Council) and the business sector. The court (the so-called Mahon Tribunal) found in March 2012, after a 15-year public inquiry,[31] that "corruption had become a regular aspect of [the

24. https://merrionstreet.ie/en/News-Room/News/Government_Sets_Indicative_Timetable_For_Referendums.html.
25. www.ipu.org/parline-e/reports/2153_B.htm.
26. AS/Mon (2017) 23, comments provided by Senator Alice-Mary Higgins (Independent)
27. Funds allocated to Women's Aid, an NGO running the Women's Aid National free-phone Helpline and other services, has been slashed by 31% while demand for services has increased. Funding for locally based NGOs has reportedly been cut by 41% since 2011. CommDH(2017)8, paragraphs 48-49.
28. See https://beta.oireachtas.ie/en/committees/32/social-protection/. AS/Mon (2017) 23, comments provided by Senator Alice-Mary Higgins (Independent).
29. As described by Senator Alice-Mary Higgins, the changes made in 2012 left the full contributory pension intact but significantly cut payments to those on reduced pensions. Calculation of entitlement is based on the average social insurance contributions over the total years in the formal labour force. This penalises those who have taken a break from the labour force to attend to domestic work and care duties, AS/Mon (2017) 23.
30. http://transparency.ie/news_events/corruption-perceptions-index-2016.
31. The Tribunal mostly investigated planning permissions and land rezoning issues in the 1990s in the Dublin County Council area.

politicians'] public role", that corruption affected every level of Irish political life and that those with the power to stop it were often involved; corruption was at the time it occurred "an open secret" and "an acknowledged way of doing business".[32]

33. In 2014, GRECO published its Fourth Evaluation Report on corruption prevention in respect of members of parliament, judges and prosecutors. It notably evaluated the compliance of Irish legislation with GRECO standards in the light of the ongoing implementation of the recommendations that had been made by the "Mahon Tribunal".[33]

34. With respect to members of parliament, GRECO recommended that the authorities set up a comprehensive ethical framework for members of parliament and their staff and enhance the existing asset declaration regime, including by establishing proper mechanisms for investigating complaints and punishing misconduct. In addition, it recommended that the scope of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 be clarified to ensure the full implementation of the protection and encouragement for whistle-blowers contained in the Protected Disclosures Act of 2014.

35. As stated in the last GRECO compliance report, a new public sector normative framework could be established with the expected adoption of the Public Sector Standards Bill prepared in 2015. If adopted, this Bill would appear to provide a uniform and consolidated legal framework for members of parliament, on an equal footing with other public officials. This legislation would also set forth a unified declaration regime at both local and national level, extending the obligations to all members of parliament and their connected persons.[34] It would also establish a single Public Sector Standards Commissioner.[35]

36. GRECO also issued recommendations regarding corruption prevention with respect to judges and prosecutors, in particular regarding the setting up, with due expedition, of an independent statutory council for the judiciary. It recommended a thorough review of the current system for selection, recruitment, promotion and transfer of judges with a view to increasing its transparency and avoiding any improper influence from executive/political powers. In addition, it recommended formally establishing a code of conduct for judges, enhancing the policy for handling complaints against the prosecution service and enhancing the ethical framework for prosecutors.

37. In 2016, GRECO prepared a compliance report, which was published in June 2017.[36] GRECO noted with concern that none of the five recommendations in relation to the judiciary had been implemented. It found that Ireland's "overall very low level of compliance with the recommendations [was] 'globally unsatisfactory'". Ireland has therefore been asked to report to GRECO again on implementation by March 2018.

38. I was informed that, since then, the government published on 1 June 2017 the Judicial Council Bill, while the Judicial Appointments Commission Bill is at committee stage in parliament. For the authorities, the Judicial Council Bill, once enacted, should address some of the key recommendations of the 2014 GRECO report, namely the establishment of an independent statutory council for the judiciary, the establishment of a code of conduct for judges and the institutionalisation and resourcing of dedicated induction and in-service training for judges. The Bill is expected to be enacted before the end of 2017.[37]

39. I understand that an anti-corruption bill first proposed in 2012 — the Criminal Justice (Corruption Offences) Bill — still awaits enactment. The Bill will repeal and replace the seven enactments that make up the existing body of anti-corruption legislation and make the law clearer and more accessible. Among other provisions, it will establish a new corporate offence of bribery, new presumptions of corrupt gifts, corrupt donations and a presumption of corrupt enrichment if public officials display a standard of living above that of their stated assets and interests. It will include increased penalties for politicians found guilty of corruption, including forfeiture of office in certain circumstances. The Bill was published on 2 November 2017.

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32. Fourth evaluation round: Corruption prevention in respect of members of parliament, judges and prosecutors: evaluation report: Ireland, adopted by GRECO at its 65th plenary meeting, Strasbourg, 6-10 October 2014, published in November 2014, Greco Eval IV Rep(2014)3E.
33. Greco Eval IV Rep(2014)3E.
34. Fourth evaluation round: Corruption prevention in respect of members of parliament, judges and prosecutors: compliance report: Ireland, adopted by GRECO at its 75th plenary meeting, Strasbourg, 20-24 March 2017, published in June 2017, GrecoRC4(2017)7.
35. This Commissioner would be empowered to initiate investigation, even in the absence of the receipt of a complaint, have stronger powers of sanction, a broader role of guidance and advice and oversight of the Codes of Conduct applicable to public officials. GrecoRC4(2017)7.
36. GrecoRC4(2017)7.
37. AS/Mon (2017) 23.

40. I also noted that, in accordance with the Regulation of Lobbying Act, adopted in March 2015, the government has prepared a Transparency Code requiring open records on the groups and individuals that advise public officials on policy. The public has broad access to official information under the 2014 Freedom of Information Act, though partial exemptions remain for the police and some other agencies.[38]

41. I welcome the progress made by the Irish authorities to implement the GRECO recommendations. At the same time, I would like to pay homage to the important role of NGOs in combating corruption in Ireland: Transparency International has for example been operating a free-phone helpline for whistle-blowers, witnesses and victims of fraud, corruption and other wrongdoing. The organisation also published in 2016 a Speak Up report drawn from anonymous data collected from over 500 people who had called the Transparency International helpline for information, referrals or support since 2011.[39] In this context, I note that Transparency International advocates the establishment of either a national anti-corruption agency or an inter-agency task force on corruption and economic crime, to prevent corruption and economic crime in the long term.[40]

## 4. Human rights

42. Ireland's human rights record is globally satisfactory. Co-operation with the Council of Europe has continued in this area. In 2010, Ireland ratified the Council of Europe Convention on Action against Trafficking in Human Beings. In 2013, the Committee of the Parties invited the Irish authorities, *inter alia*, to strengthen action to combat trafficking for the purpose of sexual and labour exploitation,[41] pay increased attention to children and undocumented migrant workers, and review the policy of accommodating victims of trafficking in centres for asylum seekers.[42] Following GRETA's recent report,[43] the Committee of the Parties welcomed progress made in the legal and institutional framework, the adoption of a comprehensive action plan to prevent and combat human trafficking and efforts made to improve training of professionals and public awareness- raising campaigns. It called, however, on the authorities to improve notably the protection of, and assistance provided to *all* victims of trafficking, including the recovery and reflection period provided by the Convention, and provide easily accessible avenues for compensation. Further legislative changes are expected to prevent the punishment of victims of trafficking for their involvement in unlawful activities (to the extent that they were compelled to do so), and provide for effective investigation and prosecution against human traffickers, leading to proportionate and dissuasive sanctions.[44]

43. Concerning the situation in prisons,[45] the 2015 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) noted improvements in the prison system, but expressed concern at inter-prisoner violence or the lack of in-cell sanitation in some prisons. The CPT also recommended improved health-care services in police stations as a safeguard against ill-treatment, called for independent investigation of allegations of excessive use of force at the time of apprehension and encouraged the establishment of a specifically designed centre for immigration detainees. It is regrettable that the government delayed the ratification of the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT), and that there is no national preventive mechanism in place.

44. Some specific human rights issues identified by the other Council of Europe monitoring mechanisms deserve however more focused attention. I would like to devote the subsequent sections of this report to the protection of the rights of women, children, Irish Travellers and Roma, as well as the situation of asylum seekers and recent developments in the police.

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38. https://freedomhouse.org/report/freedom-world/2016/ireland.
39. http://transparency.ie/sites/default/files/15.03.31_speak_up_final.pdf.
40. Ibid., p. 26.
41. In 2015, there were 78 alleged victims of human trafficking reported to the police; females accounted for two thirds of the alleged victims; 29% of alleged victims were minors; www.justice.ie/en/JELR/Trafficking_in_Human_Beings_in_Ireland-Annual_Report_2015.pdf/Files/Trafficking_in_Human_Beings_in_Ireland-Annual_Report_2015.pdf.
42. Recommendation CP(2013)9 of the Committee of the Parties, adopted in October 2013.
43. GRETA's report and Government's comments, published in September 2017, GRETA(2017)28.
44. Recommendation CP(2017)29 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland, adopted at the 21st meeting of the Committee of the Parties on 13 October 2017, CP(2017)29.
45. According to figures made available by the Irish Penal Reform Trust, there were 3 674 people in prison custody in Ireland at the end of 2016. 60% of the people serving sentences of six months or less are poor and often homeless. Prisoners in Ireland are 25 times more likely to come from (and return to) a seriously deprived area.

### *4.1. Women's rights*

#### *4.1.1. Constitutional protection of gender equality*

45. While progress has been made, gender equality remains an issue of concern in Ireland. The constitutional basis of gender equality remains highly questionable: while the (1937) Constitution prohibits discrimination on the grounds of sex and gender in employment and other fields of life, it contains a general provision that allows the State to give "due regard to the differences of capacity, physical and moral, and of social function" between men and women (Article 40.1 of the Constitution). Moreover, gender stereotypes are strengthened by constitutional provisions. For example, according to the Constitution, the State "recognises that by her life within the home, a woman gives to the State a support without which the common good cannot be achieved". The State shall, therefore, "endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home" (Article 41.2).

46. The 2012 Constitutional Convention proposed a constitutional amendment to "the clause on the role of women in the home and encouraging greater participation of women in public life". Many organisations have sought to have Article 41.2 replaced with a gender-neutral clause which recognises the contribution of care to Irish society.[46] The authorities announced that a referendum on this issue should be held in October 2018.[47] In view of Ireland's obligations towards the Council of Europe, the removal of this provision which engraves gender stereotypes in the Constitution would be most welcome.

#### *4.1.2. Sexual and reproductive rights: the abortion issue*

47. Abortion is extremely restricted in Ireland. It has been criminalised since 1861. This was strengthened in 1983 by the adoption, by referendum, of the Eighth Amendment which gave "the right to life of the unborn" equal status to "the right to life of the mother" under the Constitution. It remains a contentious and divisive issue. While different grass-roots initiatives seek the revision of the legal framework, others consider that the Constitution "vindicates the rights of unborn children as authentic human rights", that "the Irish Government has a duty to defend and promote this as the authentic interpretation of human rights in this area and to exhort other State actors and non-governmental actors to take a similar view".[48] I shall however recall the latest position taken on this issue by international organisations of which Ireland is a member.

48. In 2010, following the 2010 judgment of the European Court of Human Rights in the case of *A, B and C v. Ireland*,[49] the Irish authorities adopted the Protection of Life During Pregnancy Act 2013 (PLDPA), meant to provide a clear legal framework with regard to the constitutional right to termination of pregnancy where a pregnant woman's life is subject to a "real and substantial" risk that can only be averted by bringing the pregnancy to an end.

49. Abortion is thus constitutionally permitted only when a woman's or girl's life is at "real and substantial risk", under specific circumstances and requirements (certification "in good faith" must be carried out by two medical practitioners to ensure that there is a real and substantial risk to the life of a pregnant woman that emanates from a physical illness, or by one single doctor in emergency cases, or by three doctors in case of risk of suicide). A 14-year prison sentence is foreseen in all other circumstances for women, health care providers and anyone assisting them in all cases (including of rape, incest and fatal foetal abnormality) except where there is a "real and substantial risk" to the life of the pregnant woman (including suicide).

50. In addition, "advocacy" and "promotion" of abortion are criminalised by the Abortion Information Act 1995.[50] For the United Nations Human Rights Committee this "has a chilling effect on health-care providers, who experience difficulty in distinguishing between 'supporting' a woman who has decided to terminate a

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46. AS/Mon (2017) 23, comments provided by Senator Alice-Mary Higgins (Independent).
47. In the recent "National Strategy for Women and Girls 2017-2020: creating a better society for all", launched in May 2017, the authorities had committed to organising a referendum on Article 41.2 of the Constitution by 2020. AS/Mon (2017) 23.
48. AS/Mon (2017) 23, comments provided by Senator Rónán Mullen (Independent).
49. Case of *A, B and C v. Ireland*, Application No. 25579/05. The three plaintiffs had become unintentionally pregnant and had to travel to the United Kingdom to get an abortion. In the case of plaintiff C, her pregnancy was incompatible with the chemotherapy she was undergoing.
50. The 1995 Act defines the conditions under which information relating to abortion services lawfully available in another State might be made available in Ireland. The authorities indicated that "[w]hile a doctor is prohibited by the terms of the 1995 Act from advocating or promoting the termination of pregnancy, they are not precluded from giving full information to a woman with regard to her state of health, the effect of the pregnancy on her health, the consequences to her health and

pregnancy and 'advocating' or 'promoting' abortion".[51] In addition, in his latest report, the Commissioner for Human Rights noted that women's rights defenders working on abortion issues in Ireland have experienced smear campaigns and stigmatisation.

51. In fact, the very restrictive access to abortion in Ireland does not discourage women from resorting to abortion: either these women travel abroad, for those who can afford it and have the required documents, or they resort to clandestine abortions. In his 2017 report, the Commissioner for Human Rights indicates that 26 terminations of pregnancies were done in 2015 under the PLDP Act,[52] while, according to Amnesty International, 10 to 12 women and girls a day (that means between 3 500 and 4 380 a year) travel abroad (United Kingdom, the Netherlands) to have access to abortion. In this context, it should be recalled that the Parliamentary Assembly has called for the decriminalisation of abortion, and for an "Access to safe and legal abortion".[53]

52. In 1992, voters approved by referendum the Thirteenth Amendment to the Constitution, decriminalising travelling abroad for abortions and collecting information about abortion services abroad. That same year, and again in 2002, voters rejected amendments that would have removed the threat of suicide as grounds for a legal abortion.[54]

53. The consequences of this restrictive abortion legislation in Ireland have raised mounting criticism from international human rights bodies, including the United Nations Human Rights Committee,[55] the United Nations Committee on Economic, Social and Cultural Rights (CESCR) and the United Nations Committee Against Torture.[56]

54. In his March 2017 report,[57] the Commissioner for Human Rights strongly urged the Irish authorities to make progress towards a legal regime governing the termination of pregnancy, He recommended decriminalising abortion within reasonable gestational limits. "At the very minimum, abortion performed to preserve the physical and mental health of women, or in cases of fatal foetal abnormality, rape or incest, should be made lawful".[58]

55. In addition to initiatives taken by the NGO sector or political parties[59] to revise the legislation, the government has established a "Citizens' Assembly" chaired by Supreme Court Judge Mary Laffoy, and comprising 99 citizens chosen at random. This assembly has been mandated by the parliament to examine the full range of medical, legal and ethical issues surrounding abortion. It gathered 13 500 comments from the public – a random sample of 300 of them was published on the website.[60] The Citizens' Assembly first considered the Eighth Amendment of the Constitution (Article 40.3.3) and held a series of meetings in October 2016 and April 2017, gathering facts in relation to the issue, and listened to experts in the medical, legal and ethical field and to advocates' views on the topic.

56. The result of the assembly's ballot showed that the majority of members recommended that the Eighth Amendment be replaced with a provision that explicitly authorises the Oireachtas to legislate on the termination of pregnancy, any rights of the unborn and any rights of the woman, concluding that the issue of abortion should be removed from the Constitution and dealt with through legislation.[61] The assembly also made recommendations on what should be included in such legislation; specifically they recommended a number of reasons for which termination of pregnancy should be lawful in Ireland and any gestational limits that should apply. The Citizen's Assembly also made specific recommendations in terms of what that

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life if the pregnancy continues and leaving to the pregnant woman the decision whether in all the circumstances the pregnancy should be terminated. In addition, the 1995 Act does not prohibit or in any way prevent a woman being given any medical, surgical, clinical, social or other like records relating to her." AS/Mon (2017) 23.

51. UN Human Rights Committee, *Mellet v. Ireland*, Communication No. 2324/2013, CCPR/C/116/D/2324/2013 (2016), 3.10.

52. CommDH(2017)8.

53. See Resolution 1607 (2008) on access to safe and legal abortion in Europe, Doc. 11537.

54. https://www.nytimes.com/2017/01/08/world/europe/ireland-reconsiders-its-constitutional-ban-on-abortion.html?_r=0.

55. UN Human Rights Committee, *Mellet v. Ireland*, Communication No. 2324/2013, CCPR/C/116/D/2324/2013 (2016), 3.10, cited in CommDH(2017)8, paragraph 86.

56. UN Committee against Torture, Concluding observations on the second periodic report of Ireland, CAT/C/IRL/CO/2.

57. CommDH(2017)8, report by Nils Muižnieks, Commissioner for Human Rights, following his visit to Ireland from 22 to 25 November 2016.

58. CommDH(2017)8, paragraph 95.

59. In late 2014, Labour Women, a branch of the Irish Labour Party, established a Commission for Repeal of the Eighth Amendment.

60. See www.citizensassembly.ie.

61. AS/Mon (2017) 23, comments provided by the authorities

legislation should support, including:[62] access without restriction up to 12 weeks, access up to 22 weeks for socio-economic reasons and access without restriction where there is a serious risk to the life or physical or mental health of the woman.[63]

57. The Citizens' Assembly submitted its final report on the Eighth Amendment to the Constitution to the Houses of the Oireachtas on 29 June 2017 for consideration by a Special Joint Committee established by the Dáil and the Seanad for the purpose, which should report its conclusions and recommendations to both Houses of the Oireachtas within three months of its first public meeting.[64] On 26 September 2017, the authorities announced that a referendum on the Eighth Amendment would be held in May or June 2018.

#### *4.1.3. Fight against violence against women, including in institutions*

58. Ireland signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence in November 2015 but has not ratified it. This is regrettable as domestic violence is a serious issue in Ireland. Since 1996, 209 women have died as a result of violence in Ireland, 63% of them were killed in their own home. Budgetary constraints have reduced front-line services despite increased demand. The low rate of prosecution and sanctions for domestic violence crimes also raise questions.[65]

59. There are some highly mediatised cases that shed light on past abuse against women in institutions managed or funded by the State, which received insufficient response in terms of redress and compensation.

60. One of the most famous cases relates to "Magdalene Laundries", a religious-run laundry enterprise with State funding and oversight between the 1930s and 1996.[66] Until 1996, "over 10 000 women and girls were detained or resided in Magdalene Laundries. These women were allegedly subjected to a range of human rights abuses, including arbitrary deprivation of liberty, inhuman and degrading treatment and forced labour".[67] A report (known as the McAleese Report) was published in 2013 by an "Inter-Departmental Committee to establish the facts of State involvement with the Magdalene Laundries" and fully accepted by the Irish Government as "a comprehensive and objective report of the factual position regarding the operation of the Magdalene Laundries".[68] There was also an official apology in 2013 from the Head of the Government (An Taoiseach), Enda Kenny, to survivors of the Magdalene laundries.

61. I was provided with extensive information on the conclusions made by the McAleese Committee. The authorities argued that this Committee "had no remit to investigate or make determinations about allegations of torture or any other criminal offence nonetheless in the course of its investigation", and "found no factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions". The authorities also concluded that "while isolated incidents of criminal behaviour [could not] be ruled out, in light of facts uncovered by the McAleese Committee and in the absence of any credible evidence of systematic torture or criminal abuse, the Irish Government does not propose to set up a further Magdalene inquiry or investigation. It is satisfied that the existing mechanisms in Ireland for the investigation and, where appropriate, prosecution of criminal offences can address individual complaints of criminal behavior", citing the *ex gratia* scheme to be established, the lump sum (ie almost €25.5m) paid out to 677 women and other supports, including "top-up" pension-type payments and enhanced medical care, medical support for women residing abroad, and grants provided to the Irish Women Survivors Support Network (IWSSN) in the United Kingdom (where up to 20% of applicants live).[69]

62. I note however that this assessment was challenged by one member of the delegation, who emphasised that "institutional abuse and State collusion has been prevalent in Ireland's past" and needed to be faced up to by the State. I subscribe to Ms Higgins's position that "a high standard of investigations,

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62. https://www.citizensassembly.ie/en/The-Eighth-Amendment-of-the-Constitution/Final-Report-on-the-Eighth-Amendment-of-the-Constitution/Final-Report-incl-Appendix-A-D.pdf.
63. AS/Mon (2017) 23, comments provided by Senator Alice-Mary Higgins (Independent).
64. AS/Mon (2017) 23.
65. CommDH(2017)8, pp. 14-15.
66. The authorities stressed however that the "Magdalene Laundries were not managed by the State and generally were not funded by the State either." AS/Mon (2017) 23. Independent MP Alice-Mary Higgins notes that the Department for Justice omits to mention that ultimate responsibility lay with the State, as acknowledged in the official apology from An Taoiseach Enda Kenny, and there was a high level of collusion in the corruption of justice for survivors between the State and religious institutions.
67. CommDH(2017)8, p. 33.
68. AS/Mon (2017) 23.
69. Ibid.

recognition and redress, as well as adequate preventative mechanisms are essential". Some of the features of current and previous redress schemes which have been a cause for concern among parliamentarians and civil society include: requiring victims to sign waivers to access compensation and support at an earlier point;[70] inadequate recognition and inadequate inclusion of first person testimony;[71] lack of transparency and in some cases an antagonistic tone towards those who have sought to access redress, have come forward to report abuses or criticise the process;[72] the limited scope of investigation.[73] The fact that the Department of Justice concluded that the absence of any evidence of systemic torture or criminal abuse uncovered during its investigations was sufficient reason to not investigate further allegations, raises some questions and calls for a full and separate inquiry into these investigations. I would recommend that the Irish authorities consider such an inquiry.

63. This assessment corroborates the conclusions that victims of the "Magdalene Laundries" have not been provided with adequate remedies or compensation as pointed out by several international instances, such as, *inter alia*, the UN Committee on Economic, Social and Cultural Rights (CESCR)[74] and the UN Committee against Torture,[75] as well as the Commissioner for Human Rights, for whom the lack of comprehensiveness and independence of the inquiry into the "Magdalene Laundries" and the *ex gratia* compensation scheme was seen as "below adequate standards of truth, justice and reparations".[76] Women who were in such institutions have access to the State-funded Magdalene Restorative Justice ex gratia Scheme (see above), which remains open to new applications.[77]

64. Another case relates to abusive conditions between 1922 and 1998 in "mother and baby homes" operated by religious orders with State funding for unmarried mothers to give birth – which, at that time, meant significant social stigma. The Commissioner for Human Rights echoed the allegations of past abuses against women and children in these homes, including, *inter alia*, high child mortality rates, illegal adoption practices and denial of medical care to some women.[78] In February 2015, a Commission of Investigation[79] was established by the authorities. This Commission was expected to publish its final report within three years. The scope and pace of investigations has been criticised. An initiative called "Clann" (Ireland's unmarried Mothers and their Children: Gathering the Data) intends to help establish the truth about what happened to unmarried mothers and their children in the 20th century in Ireland.[80] Two Interim Reports prepared by the Commission in July 2016 and September 2016 have been published by the government and should be completed by February 2018.[81] However a member of the delegation raised concerns about a recent suggestion made by a minister in relation to the mother and baby homes, that it would not be possible to implement a recommendation to reopen the 2002 redress scheme in order to compensate survivors of institutional child abuse at mother and baby homes due to cost implications. For this MP, this position of the government would be unacceptable and even worrying in light of emerging reports and evidence of further abuses including forced adoption, obstruction of access to records for victims of forced adoption and involuntary vaccination trials on residents of mother and baby homes.[82]

65. In my view, these cases underscore that, despite the welcome efforts of the State authorities to initiate compensation processes, much remains to be done to give effective redress to the victims of suffering.[83] The authorities should fully recognise the lamentable gender dimension of the violence to which these women were subjected.

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70. For Ms Higgins, those who signed the waiver have therefore felt themselves unable to seek legal redress or highlight abuse through the court system. www.iccl.ie/news/2014/12/02/varadkar%E2%80%99s-symphysiotomy-waiver-%E2%80%9Cshields-perpetrators%E2%80%9D-say-advocates.html.
71. 50% of the women interviewed were still living under the care of religious orders and there was no public invitation to testify. http://humanrights.ie/economic-rights/critiquing-the-mcaleese-report/.
72. https://www.irishtimes.com/news/social-affairs/caranua-reabuses-institutional-survivors-un-to-hear-1.3142223.
73. www.thejournal.ie/womens-rights-un-committee-3274008-Mar2017/.
74. Amnesty International World report 2015/2016, p. 199.
75. "The Committee considers that its recommendations to investigate allegations of ill-treatment of women at the Magdalene laundries operated by religious orders of the Catholic Church, prosecute perpetrators and ensure that victims obtain redress and have an enforceable right to compensation have not been implemented", CAT/C/IRL/CO/2.
76. CommDH(2017)8, p. 34.
77. AS/Mon (2017) 23.
78. See Amnesty International, Ireland: "Tuam babies" mass grave allegations must spark urgent investigation, 5 June 2014.
79. Statutory Commission of Investigation into Mother and Baby Homes and certain related Matters (S.I. No. 57 of 2015).
80. http://clannproject.org/.
81. AS/Mon (2017) 23.
82. AS/Mon (2017) 23, comments provided by Senator Alice-Mary Higgins (Independent).

66. In this context, the rapporteur can only welcome the introduction of a Domestic Violence Bill in February 2017, which should pave the way for the ratification of the so-called Istanbul Convention to prevent and combat violence against women and domestic violence (signed in November 2015). The National Strategy on Domestic, Sexual and Gender-based Violence 2016-2021 includes 18 actions necessary to implement the Convention.[84] Measures should also be taken to alleviate the disproportional effect of the austerity measures on women and women's organisations. The increased funds allocated to the Child and Family Agency (Tusla), which is responsible for the provision of services for the care and protection of victims of domestic, sexual and gender-based violence,[85] is a positive step in this respect.

67. However, there were critical views expressed on the content of the Domestic Violence Bill, which does not contain a definition of domestic violence, nor is coercive and controlling behaviour explicitly named as an aspect of domestic violence. Further, it does not make a specific criminal offence of domestic violence or coercive and controlling behaviour. Advocacy groups, including SAFE Ireland, fear that it could leave many victims without necessary legal protections. At the time of the drafting of this report, the bill was still being discussed in parliament. I hope that the MPs will draw inspiration from the Istanbul Convention when adopting the Bill, in order to ensure its compliance with that convention.

### *4.2. Fight against sexual violence against children, especially in institutions*

68. Ireland has faced a number of cases of child abuse in institutions in the past and set up a range of measures to inquire into the extent of child abuse in institutions where children had been removed by the State from their parents and were therefore placed out of their protection. The Irish authorities have taken a number of initiatives to combat child abuse in institutions.

– The Commission to Inquire into Child Abuse (CICA), which was created in 2000 and covered the period 1936-1999. It investigated child abuse as defined by the 2000 Commission to Inquire into Child Abuse Act (amended in 2005).[86] The work of the CICA was not limited to sexual abuse and was not restricted to institutions run by the Catholic Church. However, the complaints mostly came from a period during which large-scale institutionalisation was the norm, including in institutions run by the Catholic Church and subject to State regulation or inspection. The CICA published in 2009 the final "Ryan Report", which found that "physical and emotional abuse and neglect were features of the institutions" and that "sexual abuse occurred in many of them, particularly boys' institutions". The Residential Institutions Redress Board was set up in 2002[87] to make fair and reasonable awards to persons who, as children, were abused while resident in industrial schools, reformatories and other institutions subject to State regulation or inspection. It collected applications until 15 December 2005. This deadline was extended to 16 September 2011. As of 2014, the Board had received a total of 16 626 applications and had made 15 545 awards of redress.[88] The authorities recalled that "only people who had already been convicted by a court could be identified in the Ryan report".[89]

– To improve child protection, in addition to Health Boards and later the Health Services Executive (HSE) which dealt with child protection, the Child and Family Agency (Tusla) was created in 2014 and tasked with receiving and acting upon formal referrals of any child protection concerns. The Children First Act was adopted in 2015 (it should be implemented after 2017).

69. Another emblematic case relates to the 2014 *O'Keeffe v. Ireland* judgment[90], where the European Court of Human Rights found that the Irish State had failed to meet its obligation (under Article 3 (prohibition of torture and inhuman and degrading treatment or punishment)) to protect the applicant from sexual abuse

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83. In this respect, my attention was also drawn to the cases and inquiries listed in the preliminary report; similar criticisms have also been levelled against the State by survivors of symphysiotomy [an operation during which the mother's pelvis is surgically widened to facilitate childbirth] in relation to inquiries and redress mechanisms, an issue also dealt with by, *inter alia*, the Commissioner for Human Rights and the UN Committee Against Torture. 1 500 women underwent symphysiotomy in Ireland mostly between the 1940s and the 1980s, while other European countries would resort to caesarian sections in cases of difficult births. In: CommDH(2017)8, p. 34. See also AS/Mon (2017) 23, comments provided by Senator Alice-Mary Higgins (Independent). https://www.irishtimes.com/news/health/survivors-of-symphysiotomy-demand-better-redress-scheme-1.1935433.
84. AS/Mon (2017) 23.
85. See the Irish observations on the report by the Commissioner for Human Rights.
86. See AS/Mon (2017) 23, p. 3.
87. under the Residential Institutions Redress Act, 2002.
88. AS/Mon (2017) 23.
89. Ibid.

suffered while attending national school and failed to provide her with an effective remedy (Article 13). The Irish State had entrusted the management of primary education to non-State actors without putting in place any mechanisms of effective State control against the risks of such abuse.[91]

70. Despite a number of general measures (including the Children First Act) taken by Ireland to avoid the repetition of sexual abuse in schools, the Commissioner for Human Rights noted that only a limited number of claimants (seven) have been compensated so far by the State Claims Agency (SCA) in charge of handling compensation for claims of past abuse.[92] According to IHREC and others, this situation followed from an overly narrow interpretation of the Court's judgment "whereby the Irish State can limit the award of compensation to cases where school authorities had failed to take action in response to a prior complaint of abuse".[93] The authorities, however, argued that the scope of the *O'Keeffe v. Ireland* judgment does not extend to all instances of abuse howsoever occurring – and did not give rise to "strict liability" on the part of a State in relation to all instances of abuse.[94] The Committee of Ministers, for its part, urged the Irish authorities in June 2016 to ensure that the State Claims Agency "continues to take a holistic and flexible approach to all such claims and concludes its work without delays".[95]

71. The supervision of the judgment implementation required Ireland to file bi-annual action plans with the Council of Europe. The last action plan, published in 2017,[96] describes a wide range of action undertaken by the authorities, from the publication of guidelines, to statutory vetting arrangements for people involved in working with children and vulnerable adults or the enactment of a range of statutory provisions to protect children from abuse. Supervision of Ireland's implementation of the O'Keeffe judgment moved in June 2016 from the enhanced procedure to the standard supervision.

72. The initiatives undertaken are to be welcomed but need to be fully implemented, in a way that will ensure that all victims of abuse in institutions be acknowledged, and compensated. The State should continue to take proactive measures to prevent the repetition of such abuses, and put in place mechanisms that will ensure that the perpetrators and those who condone or hide such abuses be brought to justice. In this respect, the ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, "Lanzarote Convention"), which Ireland signed in 2007, would be a significant step towards reinforcing the mechanisms and their oversight by the Council of Europe.

### *4.3. Fight against discrimination*

#### *4.3.1. The Irish Travellers and Roma*

73. Concerning the issue of minorities, Ireland does not recognise *de jure* the existence of minorities. However, it ratified in 1999 the Framework Convention for the Protection of National Minorities (ETS No. 157) and has shown since then a constructive attitude towards the Convention.

74. The Council of Europe drew attention to one traditional nomadic group native to the country, named the Irish Travellers – their number is estimated to 40 000 (about 0.6% of the population). Reports by ECRI and the advisory committee for the Framework Convention have documented in detail the discrimination faced by the Traveller community: in the labour market (75% are unemployed),[97] housing (with "a disproportionate number of Travellers living in sub-standards accommodation"[98]), education (69% of Travellers had completed primary

90. The applicant, Louise O'Keefe, aged nine at the time of the events, was sexually abused by her school principal when attending a primary school (under Catholic patronage) in the early 1970s. She lived at home with her parents and attended her local national school as a day pupil.
91. *O'Keeffe v. Ireland* case, Application No. 35810/09, judgment of 28 January 2014 (Grand Chamber). In: CommDH(2017)8, p. 35.
92. "Of the approximately 210 cases which had been discontinued prior to the Court's judgment under threat of costs following the domestic proceedings in *O'Keeffe v. Ireland*, 46 applications have been submitted to the SCA as of January 2017, of which 18 were dismissed principally because there had been no prior complaint of a sexual abuse committed by the school employee concerned", CommDH(2017)8, p. 35.
93. CommDH(2017)8, p. 35.
94. AS/Mon (2017) 23.
95. Committee of Ministers of the Council of Europe, Decisions 1259th meeting (7-8 June 2016).
96. Action Plan related to O'Keeffe v. Ireland, Information submitted by the Government of Ireland, 27 July 2017
97. Figures provided by the Committee of Ministers in 2014, see Resolution CM/ResCMN(2014)2 on the implementation of the Framework Convention for the Protection of National Minorities by Ireland (adopted by the Committee of Ministers on 12 February 2014 at the 1191st meeting of the Ministers' Deputies).
98. CommDH(2017)8, p. 6.

education at most and only 1% had completed higher education, according to the Commissioner[99]) or access to healthcare. Like Roma, Travellers also face racism and persisting negative stereotypes in some printed and electronic media, despite the strengthening of media self-regulation and legislation[100] aimed at encouraging balanced and fair reporting on issues affecting Travellers. In addition, Travellers have been affected disproportionately by the austerity measures following the 2008 economic crisis.

75. In 2012, the Advisory Committee for the Framework Convention for the Protection of National Minorities stressed that, while not recognising the Travellers as a minority, Ireland had adopted "a wide range of legislative and administrative provisions as well as established institutional mechanisms designed to recognise their special status in society".[101] It added that more remained to be done in order to ensure the full participation of Travellers in decision-making (and not only consultative) bodies, and to improve the Travellers' access to employment, housing and health services. On 1 March 2017, in his statement to the Dáil Éireann (Lower House), the Prime Minister formally recognised Travellers as an ethnic group. This historic and symbolic move met the demands of the Traveller community and the expectations of the Council of Europe,[102] and was welcomed by Irish human rights organisations and the Commissioner for Human Rights.[103]

76. It is estimated that there are 5 000 Roma currently living in Ireland,[104] coming mainly from central and eastern Europe. In his recent report on Ireland, the Commissioner recalled that "like in many other countries, they experience disadvantage and discrimination in all areas of life, as well as racism, exclusion and poverty". Roma often suffer from poor living conditions and face a higher risk of homelessness, low-skilled and low-paid areas of employment, if not unemployment due to factors including racism, discrimination and lack of training and formal education.[105]

77. The Commissioner recommended that Ireland review its current equality infrastructure to ensure that Travellers and Roma have access to full and effective legal remedies in cases of discrimination. He also urged the authorities to re-invest in this community and stressed the urgency of addressing the insufficient provision of Traveller-specific accommodation, inadequate conditions of many Traveller sites and defective safeguards against forced evictions. It is also a matter of concern for the European Committee for Social Rights,[106] which recommends that it be addressed in line with the case law of the European Court of Human Rights, for which evictions should be carried out in accordance with the law, pursue a legitimate aim and be necessary in a democratic society, i.e. meet a "pressing social need".[107]

#### *4.3.2. Religious discrimination in access to schools and school curricula*

78. According to the Commissioner for Human Rights, 96% of public primary schools and 58% of public secondary schools are under the patronage of religious denominations (i.e. 90% under the patronage of the Catholic Church, 5.5% under the patronage of the Church of Ireland), a unique situation in Europe, whereby the great majority of State-funded schools are privately-run religious schools (i.e. "denominational" schools), which raises a number of issues in relation to the observance of prohibition of discrimination on religious grounds and, more generally, the need to ensure an inclusive education of all pupils irrespective of their religion or belief.[108] Inherent issues are, *inter alia*, the use of the religion of the child (or lack thereof) as an admission criteria; the limited choice offered to parents and children (as the only stand-alone school available is generally a denominational school); preferential admission of Catholic students (which creates discrimination against Traveller children, migrant children and children of parents with disabilities, or in overpopulated areas) and the fact that religion permeates the whole curriculum and school life. This could end up as a system that fosters segregated schools.[109]

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99. Ibid., p. 7.
100. Creation of a Press Council in 2007, appointment of a Press Ombudsman in 2007, and expanded competence given to the Broadcasting Authorities to supervise the compliance with the Code for Programme Standards. In ACDC/OP/III(2012)006, pp. 19-20.
101. ACDC/OP/III(2012)006.
102. The Committee of Ministers welcome "the recent declaration that the proposal of recognition of Travellers as a separate ethnic minority [was] currently being given serious consideration", see CM/ResCMN(2014)2.
103. CommDH(2017)8, p. 6.
104. Source: Pavee Point in CommDH(2017)8.
105. CommDH(2017)8, p. 6.
106. The European Committee for Social Rights noted the lack of prior consultation or notice of those threatened with eviction, and the absence of legal aid resulted in judicial review of eviction not being sufficiently accessible to them. Decision on the merits, *ERRC v Ireland*, Complaint no. 100/2013, 1 December 2015, cited in CommDH(2017)8, p. 7.
107. *Winterstein and others v. France*, Application No. 27013/07, judgment of 17 October 2013. In CommDH(2017)8, p. 8.
108. CommDH(2017)8, p. 20.

79. The Commissioner urged the Irish authorities to rapidly progress towards more inclusive schools, including by removing the exemption allowing State-funded schools to use the religion of the child as one of the admission criteria. He recommended providing low-threshold options for opting out of religious instruction and improving the quality and objectivity of the course on religious education covering different religions and beliefs. He also advocates the removal of the parental rule so as to build a more inclusive school system, for a more inclusive society. The Commissioner welcomed as first positive steps the efforts undertaken since 2008 to open new primary schools in Dublin under the direct patronage of the State (i.e. Community National Schools (CNS)), which, as of today, amount to 11 CNS in the Dublin and other areas, as well as the creation of a network of 115 multi-denominational primary schools nationwide.[110] The authorities describe CNS as "a new model of primary school patronage, piloted in response to the increasing demand for parental choice in the patronage of primary schools", as "multi-denominational schools which allow for the provision of belief nurturing during the school day".[111]

80. Religious education remains compulsory in primary schools (the content of the religious education programme being determined by the patron of the school). A consultation launched by the National Council for Curriculum and Assessment (NCCA) showed that Education about Religious Beliefs (ERB) and Ethics is viewed as an important part of a child's education and integrated provision for ERB and Ethics should be developed as part of the newly developing primary curriculum.[112]

81. I was also informed that the Education (Admission to Schools) Bill was published on 6 July 2016 and is currently progressing through parliament. The Bill introduces a number of important changes to make enrolment policies fairer and more transparent in order to create a more parent-friendly, equitable and consistent approach to how school admissions policy should operate for all primary and post-primary schools.

82. The Minister for Education and Skills also held a public consultation on the role of religion in school admissions from January to March 2017, and a public forum on this issue in May 2017. The Minister stated that it was unfair that preference was given by publicly funded religious schools to children of their own religion who might live some distance away, ahead of children of a different religion or of no religion who live close to the school. He also believed that it was unfair that parents, who might otherwise not do so, feel under pressure to baptise their children in order to gain admission to the local school. A reform of the school admissions system – in the first instance in respect of the primary school system – was thus expected in relation to the role that religion can play in that process.[113] I understand that the Minister had specifically stated his intention to remove the baptism barrier, but also noted that this remains a potentially controversial issue.[114]

#### *4.3.3. Situation of LGBT people*

83. Irish law prohibits discrimination based on sexual orientation (though some social stigma against LGBT – lesbian, gay, bisexual, and transgender – people persists in Ireland). In December 2015, the parliament passed legislation to curtail an exemption that allowed health and educational institutions run by religious entities to practise employment discrimination on religious grounds, for example on the basis of sexual orientation.[115] Special attention is paid to the young LGBT people within the 2015 National Youth Strategy, and the LGBTI+ Youth Strategy which is part of the Programme for Government (2016). The election of Leo Varadkar, the gay son of an Indian immigrant as Prime Minister, in June 2017 was also viewed as a positive step towards equality.[116]

84. The Marriage Act, which provided for same-sex marriages, was signed on 29 October 2015 following the May 2015 referendum. Once commenced, the Adoption (Amendment) Act 2017 will extend adoption rights to same-sex as well as cohabiting couples.

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109. For the school year 2013-2014, 80 % of migrant children attended only 25% of schools. CommDH(2017)8, p. 25.
110. ECRI, Report on Ireland (fourth monitoring cycle), 19 February 2013, CRI(2013)1, paragraph 103. Updated figures provided by the authorities. See AS/Mon (2017) 23.
111. AS/Mon (2017) 23.
112. Information provided by the authorities, AS/Mon (2017) 23.
113. AS/Mon (2017) 23.
114. See the diverging comments provided by Senators Alice-Mary Higgins and Rónán Mullen (both Independent).
115. https://freedomhouse.org/report/freedom-world/2016/ireland.
116. Irish LGBT groups for their parts welcomed the domestic focus on Varadkar's ideology and policies, https://www.theguardian.com/world/2017/jun/02/leo-varadkar-becomes-irelands-prime-minister-elect.

85. Further progress was noted with respect to the rights of LGBT persons when, in July 2015, the parliament passed the Gender Recognition Bill,[117] ground-breaking legislation allowing the person's preferred gender to be fully recognised by the State for all purposes – including the right to marry or enter a civil partnership in the preferred gender and the right to a new birth certificate. Ireland became the fifth country in the world to allow identity-based legal gender recognition.[118] It also allows transgender individuals to obtain legal recognition without medical or State intervention, and – for married transgender people – without divorcing.The legislation came into force in September 2016, substantially meeting human rights standards, according to NGOs.[119]

86. This progress is to be lauded. The mechanisms to combat discrimination could however be further strengthened. In this respect, I hope that Ireland will now soon ratify Protocol No. 12 to the European Convention on Human Rights (ETS No. 177) on the general prohibition of discrimination, which was signed in 2000.

### *4.4. Asylum seekers*

87. There were 4 116 asylum seekers in Ireland as of November 2016, including 2 244 new applications lodged in 2016, mainly from Syria (11%), Albania (10%), Pakistan (10%), Zimbabwe (9%) and Nigeria (8%).[120] In September 2015, the government announced that it would accept up to 4 000 people in need of international protection, including both those allocated to Ireland under the European Union relocation mechanism, and 520 programme refugees then being resettled in Ireland directly from the Middle East.[121]

88. From the information received from the authorities, I understand that the authorities have intensified their efforts, doubling their commitment under the resettlement programme (from 520 to 1 040), seeking, by the end of 2017, to accept over 2 100 of the 4 000 migrants committed to by government, and examining alternative mechanisms, including launching a new refugee resettlement programme, to bring in the remainder of the 4 000 as quickly as possible.[122]

89. The Council of Europe expressed its concern about lengthy asylum procedures which affect the human rights of the asylum seekers.[123] Asylum seekers are forced to live for exceedingly long periods in temporary housing (called Direct Provision) that is inadequate for long stays. Adults are not allowed to work and the sums allocated to asylum seekers are considered to be insufficient to meet their basic needs.[124] Some 4 465 asylum applicants were residing in Direct Provision centres in 2016, 1 055 of them for more than three years.[125] The number of residents who had been in reception centres for five years or more has been gradually decreasing (from 1 670 in September 2014 to 628 in September 2016).[126] Amnesty International however expressed its outstanding concerns about the poor living conditions in "Direct Provision" centres and the lengthy stays (around 51 months) by asylum seekers. A task force was established in July 2016 to consider whether and how to implement possible recommended improvements to Direct Provision.[127] Concerning accommodation conditions, the authorities also stressed that "those in the protection process are offered accommodation by the State. No family is sharing living accommodation with any other family and the vast majority of single persons are sharing with no more than two other persons".[128] A Government Working Group on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, published in June 2015 173 recommendations. By 17 July 2017, 76% of the recommendations had been implemented, while 36 recommendations had been partially implemented or were in progress.[129]

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117. http://merrionstreet.ie/en/News-Room/Releases/T%C3%A1naiste_announces_publication_of_the_Gender_Recognition_Bill_2014.html.
118. https://www.hrw.org/news/2015/07/16/dispatches-ireland-steps-out-global-transgender-leader.
119. Amnesty International World report 2015/2016, p. 199.
120. UNHCR figures, www.unhcr.org/en-ie/irish-figures-58c91f674.html.
121. Amnesty International World report 2015/2016, p. 199.
122. AS/Mon (2017) 23.
123. See Letter from the Council of Europe Commissioner for Human Rights, Nils Muižnieks, to the Minister for Justice, Equality and Defence of Ireland, Mr Alan Shatter, 6 December 2012.
124. Asylum seekers receive an allowance of €19.10 per week (an amount that has remained the same since 2000) with an allowance of €15.60 for children (raised from the previous amount of €9.60 only in January 2016). CommDH(2017)8, pp. 29-30.
125. www.unhcr.org/en-ie/irish-figures-58c91f674.html.
126. https://freedomhouse.org/report/freedom-world/2016/ireland.
127. Amnesty International World report 2015/2016, p. 199.
128. AS/Mon (2017) 23.
129. See Department of Justice and Equality website: www.justice.ie/en/JELR/Pages/PR17000245.

90. On 30 December 2015, the International Protection Act 2015 was enacted, providing for a single procedure to deal with both claims for refugee status and claims for other forms of protection. The Commissioner for Human Rights welcomed this law, aimed at "speeding up the procedure by replacing the two-stage sequential procedure where qualification for refugee status is assessed first, and qualification for subsidiary protection is assessed only when a negative refugee decision has been issued by a single procedure, although it is too early to say if this will significantly improve the situation in practice".[130] This law should simplify and expedite asylum procedures, although there are concerns that it focuses on enabling deportations rather than properly identifying and processing asylum cases.[131]

91. The International Protection Act 2015 narrowed the definition of family for the purposes of family reunification to only a spouse or a child under the age of 18, excluding all other dependants. This is different from how the family is recognised in other areas of Irish law and reportedly caused considerable distress to those who have been awarded refugee status and have not been able to seek family reunification. The opposition has reportedly proposed to amend this definition of family. The single procedure to deal with claims for refugee status has been widely criticised for imposing a tight deadline on applications which is impossible for asylum seekers to meet given the limited legal support available to them.[132]

92. As in all my periodic reviews, I wish to pay attention to the human rights situation of migrant children. There could be between 2 000 and 5 000 undocumented migrant children in Ireland out of an overall population of undocumented migrants estimated at between 20 000 and 26 000.[133] The government-appointed Special Rapporteur on Child Protection in this context emphasised the serious adverse consequences of the Direct Provision system on the residents and in particular children. The Ombudsman for Children considered that this system should be abolished. In the meantime, the living standards of Direct Provision centres should be improved.[134] The government committed in February 2016 to granting the right to Direct Provision residents to complain to the Ombudsman and the Ombudsman for Children. In addition, in his report, the Commissioner pointed to the lack of legal avenues for undocumented children, including those who were born in Ireland, to secure a legal status, which makes them vulnerable to exploitation and human trafficking.[135]

### *4.5. Recent development in the police*

93. I was informed of some current issues concerning the functioning of the Irish police service, known as An Garda Síochána (Garda), which has endured a number of scandals in recent years. The Fennelly Commission, which published two interim reports in 2015, investigated allegations from 2014 that some Garda stations had illegally taped telephone calls. The Garda were also accused of routinely wiping penalty points from driving licenses, including those belonging to police officers. Garda Commissioner Martin Callinan resigned over these scandals in March 2014. In March 2015, the Garda Síochána (Amendment) Act was passed to strengthen the independence and effectiveness of the Garda Síochána Ombudsman Commission.[136]

94. The police force faced more controversy in 2016 after it was revealed that almost a million breathalyser tests recorded as being performed by gardaí between late 2011 and 2016 in fact never took place. Secondly, gardaí also admitted recently that 147 000 motorists were wrongly summoned to court for road traffic infringements after they had already paid fixed charge notices. These cases have prompted the government to consider reviewing the oversight mechanism of the police, for example by giving extended powers to the Policing Authority and the Garda Síochána Ombudsman Commission (GSOC), or through an independent examination of An Garda Síochána.[137]

95. In April 2017, the government outlined plans for a comprehensive review of all aspects of policing in Ireland, including the structures, leadership, management, composition, recruitment and training of personnel, culture and ethos of policing. A commission should be established to this end.

130. CommDH(2017)8, pp. 29-30.
131. https://freedomhouse.org/report/freedom-world/2016/ireland.
132. AS/Mon (2017) 23, comments provided by Senator Alice-Mary Higgins (Independent).
133. Figures provided by the Migrant Rights Centre Ireland, in CommDH(2017)8, pp. 29-30.
134. Cited in CommDH(2017)8, pp. 29-30.
135. Ibid.
136. https://freedomhouse.org/report/freedom-world/2016/ireland.
137. https://www.irishtimes.com/news/politics/fitzgerald-to-outline-independent-review-of-garda-to-cabinet-1.3035564.

## 5. Conclusions

96. Ireland remains affected by the consequences of the 2008 financial crisis and subsequent austerity measures, which can still be felt on individuals and society and has had an adverse effect on the exercise of human and social rights. The United Kingdom's exit from the European Union (Brexit), initiated in March 2017, could also have a significant political, social and economic impact on Ireland, which interacts closely with the United Kingdom. In this difficult and uncertain context, the Monitoring Committee values the efforts undertaken by Ireland to accommodate refugees and asylum seekers.

97. With the setting-up of a Constitutional Convention in 2012, Ireland has undertaken to revise its Constitution through an innovative and participatory process, involving the parliament, civil society and Irish citizens. As a result of the work of this Convention, as well as of the Citizens' Assembly and the Programme for a Partnership Government, a number of referendums on constitutional amendments and reforms to local government will be prepared by the parliament and held in 2018/2019. The Monitoring Committee applauds this inclusive participatory process which fosters participation of citizens in public life.

98. The Monitoring Committee notes with interest that one of these referenda improved the legal framework for LGBT people and resulted in the adoption, in 2015, of the Marriage Act (providing for same-sex marriages) and the Gender Recognition Act (allowing transgender individuals to obtain legal recognition without medical or State intervention). The 2017 Adoption (Amendment) Act should also extend adoption rights to same-sex as well as cohabiting couples.

99. The Monitoring Committee stresses that Ireland has ensured a functioning of its democratic institutions and human rights protection mechanisms which, overall, comply with Council of Europe standards. Ireland globally honours its membership obligations to the Council of Europe. In the light of the findings of the monitoring mechanisms of the main Council of Europe conventions, a number of issues should, however, be addressed by the authorities. The committee therefore wishes to make the following recommendations to the Irish authorities:

100. The Monitoring Committee welcomes the progress made over the past decade in acknowledging responsibility for institutional abuses perpetrated against children, as well as women, notably in the "Magdalene laundries" (which operated from 1930-1986) and the "mother and baby homes" (1922 to 1998). These efforts to confront past human rights violations include an official apology, in 2013, from Taoiseach Enda Kenny to survivors of the "Magdalene laundries", and the setting-up of various investigation committees and redress mechanisms. The Monitoring Committee expects the Irish authorities to take into account the recommendations issued by the Council of Europe Commissioner for Human Rights and the United Nations Committee against Torture to ensure that thorough investigations are conducted, and that the established redress mechanisms are accessible to all victims.

101. Concerning the issue of child abuse, the Monitoring Committee strongly encourages the authorities to further implement the *O'Keeffe v. Ireland judgment,* and urges Ireland to fully implement the legislation adopted so far, including the Children First Act 2015, and to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which Ireland signed in 2007, in line with the recommendations of the Commissioner for Human Rights.

102. In the field of gender equality, the Monitoring Committee welcomes the positive efforts undertaken to promote gender mainstreaming and better participation of women in politics, and encourages Ireland to execute its plans in the field of gender budgeting. It remains however concerned by persistent gender stereotypes and violence against women that hampers gender equality. It thus calls on the Irish authorities to take a firm stance to promote, *de jure* and *de facto*, gender equality and to:

– amend article 41.2.1 ("Women's life within the home") of the Constitution and remove the gender stereotyped provision on the occasion of the referendum scheduled in 2018, in order to consolidate the constitutional basis for gender equality and equal opportunities for women and men in society;

– combat violence against women and domestic violence, ratify the Convention on Preventing and Combating Violence against Women and Domestic Violence and, in the meantime, ensure that the Domestic Violence Bill under preparation complies with the provisions of the Convention.

103. The issue of abortion remains decisive within Irish society. At the same time, it is a societal issue which is likely to evolve over time through legislative changes. The committee thus welcomes the large public consultation and work carried out by the Citizens' Assembly to revise the Eighth constitutional Amendment adopted in 1983 which provides for highly restrictive abortion conditions, thus prompting Irish women to seek abortion abroad. The Monitoring Committee hopes that the referendum on the Eighth Amendment (to be held

in 2018) will make termination of pregnancy with gestational limits lawful in Ireland, enhance women's rights to reproductive health and facilitate an access to legal and safe abortion, in line with Assembly Resolution 1607 (2008).

104. With respect to fighting religious discrimination in access to schools and school curricula, the Monitoring Committee, together with the Commissioner for Human Rights, notes with satisfaction the efforts undertaken by the authorities to progress towards more inclusive schools. The committee calls on the parliament to adopt the Education (Admission to Schools) Bill in preparation, so as to make enrolment policies fairer and more transparent for all primary and post-primary schools. It also takes note of the public consultation launched by the government in 2017 on the role of religion in school admissions, which could help overcome the "baptism barrier". It hopes that this process will further pave the way to ensuring an inclusive education for all pupils, irrespective of their religion or belief, for a more inclusive society.

105. The Monitoring Committee encourages the Irish authorities to take into account the recommendations made by GRETA to better fight all forms of trafficking in human beings, and to reinforce the legislation and measures aimed at identifying and protecting victims of trafficking. In this respect, it also strongly encourages Ireland to ratify the Council of Europe Convention against Trafficking in Human Organs.

106. Concerning the fight against corruption, the Monitoring Committee welcomes the efforts to establish a new public sector normative framework. It encourages the parliament to adopt the 2015 Public Sector Standards Bill, which has the potential to provide for a common and uniform legal framework for public officials, including members of parliament, and to provide for a declaration regime extending the obligations to all MPs as well as their close or connected persons. The committee expects progress in respect of establishing dedicated regular training of MPs on issues such as ethics and conduct in situations of conflict of interests and corruption prevention, in line with the recommendation made by GRECO. In addition, the committee urges the authorities to publish, adopt and enact the Criminal Justice (Corruption Offences) Bill which would strengthen the anti-corruption legal framework.

107. It also welcomes the efforts to strengthen the legal framework to combat corruption in the judiciary, which, however, need to be intensified: the Monitoring Committee expects the swift adoption of the Judicial Council Bill in line with the recommendations made by GRECO to ensure the setting-up of an independent statutory council for the judiciary, the adoption of a code of conduct for judges and the institutionalisation and resourcing of dedicated induction and in-service training for judges.

108. Concerning the rights of minorities, the Monitoring Committee welcomes the recent recognition of the Travellers – a traditional nomadic group native to the country – as an ethnic group by the Irish Government. This could help to tackle the difficulties Travellers encounter in their daily lives due to social exclusion and discrimination. The committee also encourages the authorities to further combat discrimination against Roma, and calls on them to ratify Protocol No. 12 to the European Convention on Human Rights on the general prohibition of discrimination, which was signed in 2000.

## Appendix

### 1. Council of Europe conventions signed and/or ratified between 1 October 2013 and 13 October 2017 by Ireland

| No. | Title | | |
|---|---|---|---|
| 028 | Third Protocol to the General Agreement on Privileges and Immunities of the Council of Europe | | |
| | | Ratification: 18/04/2017 | Entry into force: 18/04/2017 |
| 210 | Council of Europe Convention on preventing and combating violence against women and domestic violence | | |
| | Signature: 05/11/2015 | | |
| 216 | Council of Europe Convention against Trafficking in Human Organs | | |
| | Signature: 08/10/2015 | | |

### 2. Recent findings of Council of Europe monitoring mechanisms and other bodies as at 13 October 2017

| | |
|---|---|
| **European Court of Human Rights** | European Convention on Human Rights (ETS No. 005) ratified in 1953<br>Protocol No. 1 (ETS No. 009) ratified in 1953<br>Protocol No. 2 (ETS No. 044) ratified in 1963<br>Protocol No. 6 (ETS No. 114) ratified in 1994<br>Protocol No. 12 (ETS No. 177) **signed in 2000**<br>Protocol No. 13 (ETS No. 187) ratified in 2002<br>Protocol No. 14 (CETS No. 194) ratified in 2004<br>Out of a total of 79,750 applications pending before a judicial formation on 31 December 2016, 13 concerned Ireland.<br>Resolutions adopted by the Committee of Ministers: 2 in 2013, 5 in 2014 and 0 in 2015, 2016, 2017.<br>See Press country profile Ireland |
| **Congress of Local and Regional Authorities** | European Charter on Local Self-Government (ETS No. 122) ratified in 2002<br>Report and Recommendation on local democracy in Ireland adopted in October 2013: CPL(25)5FINAL and Recommendation 342 (2013) |
| **Group of States against Corruption (GRECO)** | Civil Law Convention on Corruption (ETS No. 174) signed in 1999 but **not ratified**<br>Criminal Law Convention on Corruption (ETS No. 173) ratified in 2003, Additional Protocol (ETS No. 191) ratified in 2005<br>*Third evaluation round: second compliance report on Ireland: "Incriminations (ETS 173 and 191, GPC 2)", "Transparency of political party funding",* adopted by GRECO at its 62nd plenary meeting, Strasbourg, 2-6 December 2013, published in December 2013, GRECO RC-III(2013)10E<br>*Fourth evaluation round: Corruption prevention in respect of members of parliament, judges and prosecutors: evaluation report: Ireland*, adopted by GRECO at its 65th plenary meeting, Strasbourg, 6-10 October 2014, published in November 2014, Greco Eval IV Rep(2014)3E<br>*Fourth evaluation round: Corruption prevention in respect of members of parliament, judges and prosecutors: compliance report: Ireland*, adopted by GRECO at its 75th plenary meeting, Strasbourg, 20-24 March 2017, published in June 2017, GrecoRC4(2017)7 |
| **Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)** | Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) ratified in 1996<br>Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) **neither signed nor ratified**<br>Ireland is not a member of MONEYVAL |
| **Commissioner for Human Rights** | *Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to Ireland, from 22 to 25 November 2016,* 29 March 2017, CommDH(2017)8<br>*Comments by the Irish authorities on the report by the Council of Europe Commissioner for Human Rights, Nils Muižnieks, following his visit to Ireland, from 22 to 25 November 2016,* CommDH/GovRep(2017)4 / 29 March 2017 |

| | |
|---|---|
| **European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)** | Convention (ETS No. 126) ratified in 1988, Protocols No. 1 (ETS No. 151) and No. 2 (ETS No. 152) ratified in 1996<br>Last country visit: September 2014<br>Publication of the last report: November 2015, CPT/Inf(2015)38 |
| **Group of Experts on Action against Trafficking in Human Beings (GRETA) and Committee of the Parties** | Convention (CETS No. 197) ratified in 2010<br>1st Evaluation Round:<br>. GRETA's Report and Government's Comments published in September 2013, GRETA(2013)15<br>. Recommendation CP(2013)9 of the Committee of the Parties adopted in October 2013<br>. Government's Reply to the Committee of the Parties' Recommendation received in November 2015, CP(2015)18<br>2nd Evaluation Round:<br>. Government's Reply to GRETA's Questionnaire published in November 2016, GRETA(2016)24<br>. GRETA's Report and Government's Comments, published in September 2017, GRETA(2017)28<br>.Recommendation CP(2017)29 of the Committee of the Parties adopted in October 2017 |
| **Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) and Committee of the Parties** | Convention on preventing and combating violence against women and domestic violence (CETS No. 210) signed in 2015 but **not ratified** |
| **European Commission against Racism and Intolerance (ECRI)** | The 4th report on Ireland was adopted in December 2012 and published in February 2013, CRI(2013)1<br>Conclusions adopted in December 2015 and published in March 2016, CRI(2016)4 |
| **Venice Commission** | No opinion concerning Ireland |

**Other treaties:**

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|---|---|
| **Framework Convention for the Protection of National Minorities** | Convention (ETS No. 157) ratified in 1999<br>Third Cycle:<br>. 3rd State Report received in July 2011, ACFC/SR/III(2011)004<br>. Advisory Committee delegation visit in February-March 2012<br>. Opinion adopted in October 2012, published in April 2013, ACFC/OP/III(2012)006<br>. Government comments received in April 2013, GVT/COM/III(2013)003<br>. Resolution adopted in February 2014, CM/ResCMN(2014)2<br>. Follow-up Dialogue in November 2015<br>Fourth Cycle:<br>. 4th State report received in July 2017, ACFC/SR/IV(2017)005 |
| **European Charter for Regional or Minority Languages** | Convention (ETS No. 148) **neither signed nor ratified** |
| **European Social Charter** | European Social Charter of 1961 (ETS No. 35) ratified in 1964<br>European Social Charter (revised) (ETS No. 163) ratified in 2000<br>Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) ratified in 2000<br>See Country factsheet Ireland |