

Human Rights Council resolution 24/16 on the role of prevention in the promotion and protection of human rights

OHCHR request for information regarding the prevention of human rights violations and its practical implementation

Response of Ireland

March 2015

1a. Please describe legislative, judicial, administrative and other measures aimed at prevention of human rights violations and abuses in place at the domestic level, both with regard to direct prevention, (aiming to prevent violations from occurring by reducing the risk factors that cause violations) and indirect prevention (aimed at ensuring non-recurrence through investigation and addressing causes of violations as well as accountability)

1. Please see Ireland's National UPR Report for detail on measures to ensure direct and indirect prevention of human rights violations:

(<http://www.upr.ie/website/upr/uprweb.nsf/page/reports-en>) and Common Core Document

(http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=HRI%2fCORE%2fIRL%2f2014&Lang=en)

1b. Please describe any good practices in the implementation of the measures above as well as any challenges that have been faced.

2. In 2014, Ireland completed the merger of the Equality Authority and the Human Rights Commission to form a new body, the Irish Human Rights and Equality Commission (IHREC). The aim of the amalgamation was to strengthen our domestic human rights architecture, and the legislation creating IHREC, the Irish Human Rights and Equality Commission Act 2014, gives IHREC additional functions and a wider mandate than those previously held by the two separate organisations. The architecture of the IHREC Act is designed to comply fully both with the standards required by EU law and with the Paris Principles. In the preparation of the Bill, the Department of Justice and Equality researched the founding Acts of a large number of other NHRIs internationally and consulted with the Office of the UN High Commissioner for Human Rights. Our new Commission and its founding legislation – the Irish Human Rights and Equality Commission Act 2014 – set a new world standard in terms of the structural independence of the Commission from Government (including the independence of the selection process, which is vested in the Public

Appointments Service - the centralised provider of recruitment, assessment and selection services for the public service) and the strength of its mandate, which compares more than favourably with the mandates of other bodies studied.

1c. Please describe how such measures encompass all branches of the State (executive, legislative and judicial), and other public or governmental authorities, at whatever level – national, regional or local.

3. Ireland is a parliamentary democracy, governed by the rule of law. The Oireachtas consists of the President and two Houses: a directly-elected House of Representatives (Dáil Éireann), and a Senate (Seanad Éireann). All laws passed by the Oireachtas must conform to the Constitution.
4. The President is Head of State and does not have executive functions. On the nomination of Dáil Éireann, the President appoints the Taoiseach (Prime Minister) and, on the advice of the Taoiseach and with the prior approval of Dáil Éireann, the President appoints members of the Government. There may be up to 15 members of the Government. Government policy and administration may be examined and critiqued in both Houses, but under the Constitution, the Government is responsible to the Dáil alone.
5. Ireland also has a system of local Government, based on 34 directly-elected city and county level councils with functions in relation to matters such as planning, housing and provision of certain local services.
6. Judges in Ireland are independent both of the executive and the legislature. They are appointed by the President on the nomination of the Government.
7. Ireland has an impartial, non-political civil service recruited by an independent Public Appointments Service. Ministers are responsible for all the actions of their Departments.
8. Ireland has a single, national police service, the Garda Síochána. It is established by legislation and its internal management is subject to regulations made by the Minister for Justice and Equality. The Garda Síochána has operational independence subject to the general financial and regulatory framework set out in legislation.
9. There is an independent Garda Síochána Ombudsman Commission to investigate complaints concerning the conduct of members of the Garda Síochána and a separate independent Garda Síochána Inspectorate.
10. Ireland is currently undertaking comprehensive reform of the area of justice and policing, which will see the establishment for the first time of an Independent Garda Authority and a strengthening of the remit and powers of GSOC.

11. The authority to prosecute a person for a criminal offence rests with the Director of Public Prosecutions. The Director is independent in the discharge of his functions and does not answer to any Government or judicial authority for his decisions.
12. Ireland attaches great importance to the protection and promotion of human rights in framing legislation. All draft legislation is examined by the Office of the Attorney General to ensure that it is, inter alia, compliant with the human rights provisions of the Constitution and international human rights obligations.

2a. What action-oriented policies, practices and strategies to prevent human rights violations and abuses have been put in place at the national level, including the establishment of independent national institutions, national human rights action plans and any early warning mechanisms?

13. The Government recognises the importance of independent complaints, monitoring and inspection bodies and has established the following such bodies:
14. An independent national human rights and equality institution, **the Irish Human Rights and Equality Commission**'s purpose is to protect and promote human rights and equality in Ireland. Established in 2014 as a continuation of the Human Rights Commission which operated since 2000 and the Equality Authority which was established in 1999, IHREC aims to build a welcoming organisation that nurtures a culture of respect for human rights, equality and intercultural understanding across society. The founding legislation provides IHREC with a range of ways to address human rights and equality issues from engagement to enforcement. The Commission aims to bring about change through legal means, policy and legislative advice, awareness and education, and partnerships across society.
15. The **Equality Tribunal** is an independent statutory office which investigates or mediates complaints of unlawful discrimination. The Equality Tribunal's principal role is the investigation and mediation of complaints of discrimination in relation to employment and in relation to access to goods and services, disposal of property and certain aspects of education. This protection against discrimination applies to all nine grounds on which discrimination is prohibited under the new equality legislation - gender, civil status, family status, age, disability, race, religious belief, sexual orientation and membership of the Traveller community. Where a complaint of discrimination is upheld, redress can be awarded. For further information about the Equality Tribunal and Ireland's current reform of the workplace relations system, please see the response to question 7a.
16. The **National Disability Authority** provides expert advice on disability policy and practice to the Minister for Justice and Equality. Public sector organisations are

obliged to promote and support the employment of people with disabilities, and achieve a statutory minimum 3% target of staff with disabilities. The Authority monitors compliance by public bodies and can recommend specific action where a public body is in breach of these obligations.

17. The legislation setting up the **Ombudsman and Information Commissioner** dates back to 1980. The Ombudsman examines complaints concerning the administrative actions of Government Departments, the Health Service Executive, public hospitals and local authorities.
18. While they are in law separate entities, the Offices of the Ombudsman and the Information Commissioner have been held by the same person and the two offices operate together since the Office of Information Commissioner was established in 1997. The Commissioner is responsible for reviewing (on application) decisions of public bodies in relation to Freedom of Information requests and where necessary, making binding, new decisions; reviewing the operation of the Freedom of Information Acts to ensure that public bodies comply with the provisions of the legislation; and preparing and publishing commentaries on the practical operation of the Acts.
19. Established under the Ombudsman (Defence Forces) Act 2004, the Office of the **Ombudsman of the Defence Forces** provides a complaints procedure for members and former members of the Defence Forces in situations where internal complaints procedures have been exhausted.
20. The main areas of work of the **Ombudsman for Children's Office** include independent handling of complaints by young people or by adults on young people's behalf; communication and participation, including supporting people in finding out about children's and young people's rights; and research and policy, including advising the Government on children's rights issues.
21. The Data Protection Commissioner is responsible for upholding the rights of individuals as set out in the Data Protection legislation and enforcing the obligations of data controllers. The Commissioner is independent in the exercise of his or her functions. Individuals who feel their rights are being infringed can complain to the Commissioner.
22. The **Press Council of Ireland** and the **Office of the Press Ombudsman** safeguard and promote professional and ethical standards in Irish newspapers and magazines. The Office of the Press Ombudsman ensures that everybody now has access to an independent press complaints mechanism that is quick, fair and free. These structures are designed to ensure that the freedom of the press is never abused, and that the public interest is always served.

23. The **Inspector of Prisons** carries out regular inspections of the 14 prisons and places of detention, and reports on each institution inspected. These reports, together with an Annual Report, are published.
24. The **Health Information and Quality Authority** sets standards for healthcare, both public and private. It inspects healthcare facilities and where necessary, can apply to the Courts for closure orders where standards are not being met.
25. The **Financial Services Ombudsman** deals independently with unresolved complaints from consumers about their individual dealings with all financial services providers, including in relation to mortgage and other consumer credit matters.
26. The functions of the **Mental Health Commission** are to promote, encourage, and foster the maintenance of high standards and good practices in the delivery of mental health services and to take all reasonable steps to protect the interests of detained patients.
27. The **Inspectorate of Mental Health Services** is required by law to visit and inspect every approved centre annually and, as the Inspectorate thinks appropriate, to visit and inspect any other premises where mental health services are being provided. As part of the inspection process, the functions of the Inspectorate include ascertaining the degree of compliance by approved centres with any applicable Code of Practice or statutory regulations.
28. The **Citizens' Information Board** provides free information, advice and advocacy on a broad range of public and social services. It also supports the voluntary network of 105 Citizens' Advice Centres around the country and the Citizens' Information Phone Service.
29. The **Money, Advice and Budgeting Service (MABS)** is a national free, confidential and independent service for people in debt or in danger of getting into debt. Funded by the Government via the Citizens' Information Board, MABS operates at a network of centres at local community level that assist people with consumer debt problems, including with mortgage debts.
30. The **Private Residential Tenancies Board (PRTB)** was established under the Residential Tenancies Act 2004 to operate a national tenancy registration system and to resolve disputes between landlords and tenants. The **Rent Tribunal** was established under the Housing (Private Rented Dwellings) (Amendment) Act 1983 and is the arbitrating body in the determination of the terms of tenancy for formerly rent-controlled dwellings.

2b. Please describe how national human rights institutions contribute to prevention of human rights violations.

31. The Irish Human Rights and Equality Commission Act 2014 provides for a broad range of functions to empower the IHREC to prevent human rights violations and promote equality. These include:

Awareness and Understanding

- Protect and promote human rights and equality
- Encourage the development of a culture of respect for human rights, equality and intercultural understanding in Ireland
- Promote understanding and awareness of the importance of human rights and equality in Ireland
- Encourage good practice in intercultural relations and promote tolerance and acceptance of diversity in Ireland, and respect for the freedom and dignity of each person
- Provide information to the public in relation to human rights and equality generally.

Review

- Keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights and equality
- Either of its own volition or on being so requested by a Minister of the Government, to examine any legislative proposal and report its views on any implications for human rights or equality
- Either of its own volition or on being so requested by the Government, to make such recommendations to the Government as it deems appropriate in relation to the measures which the Commission considers should be taken to strength, protect and uphold human rights and equality in Ireland

Legal Means

- Work towards the elimination of human rights abuses, discrimination and prohibited conduct
- Request liberty to appear before the High Court or the Supreme Court, as the case may be, *as amicus curiae* in proceedings before that court that involve or are concerned with the human rights or equality rights of any person and to appear as such an *amicus curiae* on foot of such liberty being granted (which liberty each of the said courts is hereby empowered to grant in its absolute discretion
- Provide such practical assistance, including legal assistance, to persons in vindicating their rights as it sees fit in accordance with *section 40*;
- Where it sees fit, to institute proceedings under *section 41* or section 19 of the Act of 2003, as may be appropriate
- Conduct inquiries under and in accordance with *section 35*

- Prepare and publish, in such manner as it sees fit, reports including reports on any research undertaken, sponsored, commissioned or assisted by it under paragraph (j) or in relation to inquiries referred to in *paragraph (o)*;

Enabling Change

- Undertake, sponsor, commission or provide financial or other assistance for research and educational activities
- Provide or assist in the provision of education and training on human rights and equality issues
- Either of its own volition or at the request of the Minister, to undertake, sponsor or commission, or provide financial or other assistance for programmes of activities and projects for the promotion of integration of migrants and other minorities, equality (including gender equality) and respect for diversity and cultural difference
- Carry out equality reviews and prepare equality action plans or to invite others
- Do so, where appropriate, pursuant to *section 32*
- Assist public bodies in accordance with *section 42*

All Island Co-operation

- Participate in the Joint Committee with the Northern Ireland Human Rights Commission in accordance with the Good Friday/Belfast Agreement

National, European and International Engagement

- Consult with such national, European Union or international bodies or agencies having a knowledge or expertise in the field of human rights or equality as it sees fit.

32. A significant innovation in the Irish Human Rights and Equality Commission Act 2014 is the introduction of a **positive duty** on public bodies to have due regard to human rights and equality in their work and conduct their business in a manner that is consistent with individual human rights. The Commission will assist public bodies to comply with the positive duty, including by producing guidelines and codes of practice. For further information, please see the response to question 4.

2c. In those States that have established a national preventative mechanism under OpCAT, please provide information on any lessons learnt regarding prevention of torture that may also apply to prevention of other human rights violations.

33. Work on the ratification of OPCAT is in progress. In May, 2011 the Government approved the drafting of a General Scheme of an Inspection of Places of Detention Bill, which will include provisions to enable ratification of OP-CAT. The Bill will make provision for the designation of National Preventative Mechanisms (NPMs).

34. Work on the draft scheme is at an advanced stage. Once finalised, both the Scheme and the Bill will be submitted to the Joint Committee on Justice, Defence and

Equality for pre legislative scrutiny and for the conduct of a broad consultation process with civil society.

35. When the consultation process has concluded, Government agreement to progress the legislation will be sought and Parliamentary Counsel will be requested to draft the Bill in line with the General Scheme.

3a. Please describe what policies and processes are in place at the national level to collect, maintain and analyse statistical records on the situation of human rights in the country, in order to monitor the human rights situation and inform the formulation of prevention strategies and programmes; and please describe any good practices and the main challenges in this regard.

36. The Central Statistics Office was established in 1949 as Ireland's national statistical office. Its status was formalised in legislation with the enactment of the Statistics Act, 1993. The mandate of the CSO, as set out in that Act, is "The collection, compilation, extraction and dissemination for statistical purposes of information relating to economic, social and general activities and conditions in the State". The CSO is also responsible for coordinating the official statistics of other public authorities and for developing the statistical potential of administrative records. For example, the CSO website (www.cso.ie) publishes Crime Statistics from An Garda Síochána, education statistics from the Department of Education and Science, and health and social statistics from the Departments of Social Protection, Health, the Health Services Executive, the Department of the Environment, Community and Local Government, and others. Quarterly Household Surveys and other regularly updated data are particularly useful in detecting and monitoring trends in human rights issues.

37. The Office meets the needs of Government for quality statistical information, which is vital for the formation, implementation and monitoring of policy and programmes at national, regional and local levels in a rapidly changing economic and social environment. The Office also serves the needs of the wider national and international community (media, researchers, students, businesses, representative organisations, the EU, international organisations, and the public generally) for impartial and relevant information on social and economic conditions.

3b. Please describe how statistical collection ensures the inclusion of all persons and groups.

38. A national census takes place every five years and includes every person present in the country on Census Night. The census is designed to give a comprehensive picture of the social and living conditions of people in Ireland, and is essential tool for effective policy, planning and decision making purposes. The most recent census form (Census 2011) and related information was made available in 21 languages.

4. What measures have been taken to promote a human rights culture among the population and increase the level of human rights awareness in your country, including among public officials?

39. A significant innovation in the Irish Human Rights and Equality Commission Act 2014 is the introduction of a positive duty on public bodies to have due regard to human rights and equality in their work and conduct their business in a manner that is consistent with individual human rights. The Commission will assist public bodies to comply with the positive duty, including by producing guidelines and codes of practice. Training will be an important element of what the new Commission can offer. Previously, the Human Rights Commission provided tailored training to the Civil and Public Service in the field of human rights. Training has been provided to members of An Garda Síochána (the Irish police force), Irish Prison Service, local authority officials and civil servants. This section of the Act is also a positive opportunity for the Commission to encourage real reform within the public sector by adopting the approach of active engagement successfully pursued by the Equality Authority in its workplace relations work with social partners. There is potential to use the positive duty function to persuade and promote best practice by highlighting and sharing good examples.

5a. How have partnerships with civil society been strengthened to harness their experience and expertise to promote and protect human rights?

40. Ireland is fully committed to a pluralistic and open democracy and values the role played by a diverse and inclusive civil society in this regard. The importance that Ireland places upon this crucial role is reflected in the comprehensive consultation mechanisms that exist between the Irish Government and its social partners. Successive Governments have attached much importance to the role of the NGO community in the human rights area. In order to provide a formal framework for a regular exchange of views between the Department of Foreign Affairs and Trade and representatives of the NGO community, the Joint DFAT/NGO Standing Committee on Human Rights was established, comprising representatives of NGOs and experts, as well as officers of the Department. In addition to the Committee, a Forum on Human Rights, to which all interested NGOs are invited, is held annually.

41. The Government enjoys a positive, honest and constructive relationship with civil society groups and NGOs, and the input from members of the public and civil society in the UPR process and other human rights mechanisms has been of immense value. We are keen to continue this worthwhile dialogue, both in the context of fulfilling our international human rights obligations and in the broader domain of human rights policy development.

42. Public consultations are a common - and extremely important - feature of public policy development. The Government wants to ensure that as many stakeholders as

possible are able to participate in consultations to allow us to take account of the widest possible range of views from citizens and businesses across Ireland.

43. In the equality and human rights area, the Department of Justice and Equality has recently initiated two significant consultation projects. During 2015 the Department is implementing a range of proposals aimed at improving the structures in place for consulting with and improving outcomes for the Traveller & Roma communities. In addition, a wide-ranging consultation process will be undertaken this year with stakeholders to identify the key themes, objectives and specific actions/targets for the National Traveller and Roma Integration Strategy (NTRIS). The objective is to ensure a coordinated approach across Government to meeting the needs of people from the Traveller & Roma communities, with a focus on complying with the EU Framework for the Implementation of Roma Integration Strategies and ultimately improving public service engagement with, as well as outcomes for, the Traveller & Roma communities.

44. In the area of Disability policy, the Department is seeking the views of stakeholders as to how the National Disability Strategy should be progressed over the years 2016 to 2019. An initial round of consultations will identify the priority themes to be addressed in a revised National Disability Strategy. A second phase will identify and agree specific objectives under each of the themes identified in Phase 1. Phase 3 will focus on identifying precise and measurable actions and achievement of each of the objectives identified in phase 2.

5b. What roles and actions can and do civil society and NGOs take to prevent human rights violations?

45. Ireland has a vibrant, proactive and independent civil society, and it would be inappropriate for the State to answer this question on their behalf.

6. What measures and procedures have been put in place to ensure effective follow-up to recommendations regarding your country issued by international or regional human rights mechanisms, and which may contribute to preventing human rights violations?

46. An Inter- Departmental Committee on Human Rights will be established shortly, chaired by a Minister of State. The Committee will comprise of focal points from each Government Department as well as the Office of the Attorney-General. The Committee Secretariat would be provided by the DFAT Human Rights Unit with assistance from and working in close cooperation with the Department of Justice and Equality.

47. The Interdepartmental Committee on Human Rights will:

- Assist progress towards ratification by Ireland of key international human rights treaties and optional protocols;

- Monitor and facilitate the implementation of Ireland’s treaty obligations and the timely reporting to UN, the Council of Europe, and other international treaty bodies (in accordance with our Treaty obligations);
- Explore means and ways of ensuring coherence across Departments between human rights priorities in our foreign policy and the domestic human rights situation;
- Facilitate inter-Departmental input into human rights issues which arise in international fora (Third Committee, Human Rights Council, Council of Europe); and
- Help ensure coherence in the communication of Government policy in respect of human rights nationally and internationally.

7a. What legislative, judicial, administrative and other measures are in place to provide victims of human rights violations by State actors and abuses by non-State actors with an effective remedy?

48. Ireland is deeply committed to the promotion and protection of human rights, and has robust legislation, both criminal and civil, in place to protect against human rights abuses.
49. We have strong legislative protection against discrimination on 9 grounds, including race and religion, in the Employment Equality Acts, which cover discrimination in the workplace, and the Equal Status Acts, which provide for protection against discrimination in the provision of goods and services. The legislation is designed to promote equality, prohibit discrimination – direct, indirect and by association – and victimisation, and allow positive action measures to ensure full equality across the nine grounds.
50. Our legislation provides for remedies for those who have suffered discrimination. There are currently two separate and distinct bodies which support the implementation of equality legislation. The Irish Human Rights and Equality Commission acts as a ‘prosecutor’ in cases and promotes equality compliance. The Equality Tribunal is a quasi-judicial body which adjudicates or mediates equality cases, and all racial discrimination claims must be referred in the first instance to the Equality Tribunal within six months of the last act of discrimination.
51. We are currently undergoing fundamental reform of the workplace relations system. The overall objectives are to promote harmonious and productive employment relationships and to encourage early resolution of disputes, the vindication of employees’ rights, and minimisation of the costs involved for all parties – employers, employees and Government – in terms of money, time and workplace productivity. To this end, a two-tier Workplace Relations structure will be established, which will involve two statutorily independent bodies replacing the current five. There will be a

new single body of first instance to be called the Workplace Relations Commission (WRC) and a separate appeals body, which will effectively be an expanded Labour Court.

52. Persons with potential claims under both employment equality legislation and equal status legislation will, on the merger of the Equality Tribunal into the new Workplace Relations Service, continue to be able to pursue formal complaints before the new body. Complainants will be able to have complaints under the Equal Status Acts heard at first instance before an adjudicator of the Workplace Relations Commission with (as of now) the opportunity of appeal to the Circuit Court. There will be no change to rights under the Equal Status Acts as a result of the structural reforms.
53. In its work towards the elimination of human rights abuses, discrimination and prohibited conduct, the Irish Human Rights Commission may request liberty to appear before the High Court or the Supreme Court as *amicus curiae* in proceedings before that court that involve or are concerned with the human rights or equality rights of any person and to appear as such an *amicus curiae* on foot of such liberty being granted. IHREC can provide practical assistance, including legal assistance, to persons in vindicating their rights as it sees fit.
54. Details of legislation covering criminal violations of human rights are set out in paragraphs 64-78 of Ireland's National UPR Report:
(<http://www.upr.ie/website/upr/uprweb.nsf/page/reports-en>).

7b. What measures are in place to ensure that all can access such remedies in practice?

55. There is free access to remedies under equality legislation.

8. What contribution do international and regional organisations make to the prevention of human rights violations? What additional role could they play?

56. Ireland values the contribution of such organisations in improving global standards, sharing best practices, and encouraging discussion around and aspiration towards more effective human rights protection at national, regional and international levels.
57. Ireland is an active member of the Council of Europe, EU, UN and OSCE. For example, during our Presidency of the Council of the European Union, we initiated a debate on the Rule of Law and fundamental rights, particularly in the context of combating xenophobia, racism and other related extreme intolerance. Ireland is taking a lead role in a Council of Europe Roundtable on the role of equality bodies, National Human Rights Institutions and ombudsman bodies. The objective of the roundtable is to contribute to further improvement of standards of human dignity and equality protection, promotion of practical measures to protect vulnerable people and groups, including non-discrimination and non-violence as values and strategic

objectives. The deliberations of the roundtable will support the Council of Europe in its development of tools and resources for Member States in the implementation of social cohesion, human dignity and equality objectives.

[END]

March 2015