

COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-third session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 44 OF THE CONVENTION ON THE RIGHTS OF THE CHILD**

Concluding observations: Ireland

1. The Committee considered the second periodic report of Ireland (CRC/C/IRL/2) at its 1183rd and 1184th meetings (see CRC/C/SR1183 and 1184), held on 20 September 2006, and adopted at its 1199th meeting, held on 29 September 2006 the following concluding observations.

A. Introduction

2. The Committee welcomes the submission the State party's comprehensive report, as well as the detailed replies to the list of issue (CRC/C/IRL/Q/2), which provide further information on the situation of the children in the State party. It further notes with appreciation the fruitful and open dialogue with the high-level delegation of the State party.

B. Follow-up activities and progress achieved by the State party

3. The Committee notes with appreciation the adoption of new legislation and policy measures, such as:

- (a) The Equal Status Act, and the Education (Welfare) Act of 2000;
- (b) The Human Rights Commission Acts of 2000 and 2001;
- (c) The Children Act of 2001;
- (d) The Ombudsman for Children Act of 2002;
- (e) The Education for Persons with Special Needs Act of 2004; and
- (f) The National Children's Strategy, entitled Our Children – Their Lives of 2000, the National Play Policy of 2004 - Ready, Steady, Play, and the National Anti-Poverty Strategy reviewed in 2001.

4. The Committee notes with appreciation the ratification of international treaties relevant to the protection of the children's rights, including:

- (a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts in November 2002;
- (b) The International Convention on the Elimination of All Forms of Racial Discrimination in December 2000; and
- (c) The International Convention against Torture in April 2002.

5. The Committee welcomes various measures taken as follow-up to the Committee's concluding observations (CRC/C/15/Add.85) after the consideration of the initial report to the implementation of the Convention, in particular:

- (a) The establishment of the National Children's Office and the National Children's Advisory Council in 2001;
- (b) The appointment of an Ombudsman for Children in 2004; and
- (c) The establishment of the Office of Minister for Children in 2005.

C. Main subjects of concern and recommendations

1. General measures of implementation

(arts. 4, 42 and 44, paragraph 6 of the Convention)

Committee's previous recommendations

6. While welcoming various measures taken to follow-up and implement the Committee's previous concluding observations, the Committee regrets that some of the concerns expressed and recommendations made have not yet been fully addressed, in particular those related to the status of the child as a rights-holder and the adoption of a child rights-based approach in policies and practices.

7. The Committee urges the State party to make every effort to address the recommendations issued in the concluding observations on the initial report which have not yet been fully implemented, and to address the list of concerns contained in the present concluding observations related to the second periodic report.

Legislation and implementation

8. The Committee welcomes the steps taken to further develop the legal framework but remains concerned about the slow pace of enactment of specific provisions, in particular of the Children Act of 1997 and of 2001, that hampers effective implementation of the legal framework. The Committee expresses regret that the

Convention has not been incorporated into domestic law as recommended by the Committee in its previous concluding observations.

9. The Committee urges the State party to, as a matter of priority, undertake all necessary measures, including the allocation of resources to enact the outstanding provisions in the relevant Children Acts for the protection of children's rights. The Committee encourages the State party to take further action to incorporate the Convention into domestic law.

National Plan of Action

10. The Committee welcomes the creation of the National Children's Strategy as the main instrument for the improvement of the lives of children and for the enhancement of the protection their rights. The Committee also notes with appreciation the over-arching principles guiding the actions and the goals set out in the Strategy and the broad-based cooperation and public consultations undertaken in its development, including with non-governmental organizations and academics.

11. The Committee recommends that the State party:

- (a) Evaluate and assess the achievements of the Strategy to date in order to ensure that a rights-based approach to all the activities is taken;**
- (b) Establish specific timeframes for the implementation of the goals and activities of the Strategy; and**
- (c) Provide specific budget allocations for the implementation of the Strategy.**

12. The Committee recommends that the State party take steps to ensure that the Plan of Action covers all areas of the Convention, and taking into account the outcome document "A World Fit for Children" adopted by the United Nations General Assembly at its special session on children held in May 2002. The Committee further recommends that the State party implement and monitor the National Plan of Action in a participatory and holistic way and submit information on the status and impact of these activities in its next report.

Independent monitoring

13. The Committee welcomes the establishment of the Irish Human Rights Commission and the Ombudsman for Children including his/her Office which deal with the promotion and protection of human rights in general and in particular with children's rights and their welfare. While welcoming the specific inclusion of powers to investigate complaints by children or on behalf of children by the Ombudsman for Children, the Committee is concerned that some limitations may undermine the mandate of the

Ombudsman for Children in investigations related to children in prisons and Garda stations.

14. The Committee recommends that the State party, together with the Ombudsman for Children, review and propose amendments to specific provisions where necessary, to limit the scope of investigative powers with a view to eliminating possible gaps which may result in a violation of children's rights.

15. In order to ensure the independent functioning of the Office of the Ombudsman, the Committee recommends that the State party seek ways and means to provide the Office of the Ombudsman with financial resources directly through the Oireachtas (National Parliament) and the Department of Finance. The Committee also draws the State party's attention to the Committee's General Comment No. 2 on the role of independent national human rights institutions in the promotion and protection of the rights of the child (CRC/GC/2002/2).

Data collection

16. The Committee notes the progress made with regard to the collection of statistical data, in particular the research functions of the National Children's Office within the National Children's Strategy, and the commissioned National Longitudinal Study on Children which will explore the lives of children in Ireland. The Committee also notes with appreciation the information provided by the State party in its written replies and the references to a new National Data Strategy. However, the Committee remains concerned that there is a lack of systematic and comprehensive data on children, disaggregated by age, sex, ethnicity and by rural and urban areas, which would enable analysis of the situation of particularly vulnerable children in Ireland, including victims of abuse, neglect or ill-treatment; street children; children with disabilities; and children in institutional care.

17. The Committee recommends that the State party undertake further measures, including through strengthening the role of the Central Statistical Office and other governmental departments and agencies to develop a systematic and comprehensive collection of disaggregated data in compliance with the Convention, which should be used for the creation, implementation and monitoring of policies and programmes for children.

Dissemination, training and awareness-raising

18. The Committee notes with appreciation that in response to its previous recommendations, the State party has undertaken further measures to disseminate and make known the Convention among relevant authorities and the public at large. In particular, the Committee welcomes the dissemination of the Convention together with the National Children's Strategy and the awareness raising activities of the National Children's Office and the Office of the Ombudsman for Children, including through their respective web pages.

19. The Committee encourages the State party to further strengthen its efforts to ensure that the provisions of the Convention are widely known and understood by both adults and children, including through periodic and nation-wide public awareness-raising campaigns that include also child-friendly material, and through targeted campaigns and necessary training for professionals working with children, in particular within schools and health and social services, and legal professionals and law enforcement officials.

3. General Principles

(arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

20. The Committee welcomes the establishment of the National Action Plan against Racism in 2005 and in particular, the five objectives of the plan for protection, inclusion, provision, recognition and participation. The Committee is, however, concerned that the principle of non-discrimination might not be enjoyed equally by all children in the State party and that children of different ethnicities and children belonging to minorities face higher levels of racism, prejudice, stereotyping and xenophobia.

21. The Committee recommends that the State party ensure that the National Action Plan against Racism is fully implemented and that specific attention is given to measures to address racism, prejudice, stereotyping and xenophobia among children, in particular in primary and secondary education.

Best interests of the child

22. The Committee notes that steps have been taken in some areas to ensure respect for the best interests of the child, yet remains concerned that the principle is still insufficiently addressed.

23. The Committee recommends that the State party:

- (a) Ensure that the general principle of the best interests of the child is a primary consideration without any distinction and is fully integrated into all legislation relevant to children; and**
- (b) Ensure that this principle is also applied in all political, judicial and administrative decisions, as well as projects, programmes and services that have an impact on children.**

Respect for the views of the child

24. The Committee notes with appreciation measures undertaken to promote the respect for the views of the child, including through the Children and Youth Parliaments, and progress made to establish effective student councils in post-primary schools. The

Committee is, however, concerned at the lack of insufficient provisions for *guardian ad litem*, that these measures are not taken in a systematic and comprehensive manner and that the local level and subject-specific authorities are not addressed. The Committee also notes that a high number of the complaints received by the Ombudsman for Children relate to a lack of respect for the views of the child.

25. In light of article 12 of the Convention, the Committee recommends that the State party:

- (a) Strengthen its efforts to ensure, including through Constitutional provisions, that children have the right to express their views in all matters affecting them and to have those views given due weight in particular in families, schools and other educational institutions, the health sector and in communities;**
- (b) Ensure that children be provided with the opportunity to be heard in any judicial and administrative proceedings affecting them, and that due weight be given to those views in accordance with the age and maturity of the child, including the use of independent representations (*guardian ad litem*) provided for under the Child Care Act of 1991, in particular in cases where children are separated from their parents; and**
- (c) Take into account the recommendations adopted on the Committee's day of general discussion on the right of the child to be heard in September 2006.**

4. Civil Rights and Freedoms

(arts. 7, 8, 13-17 and 37(a) of the Convention)

Protection of privacy

26. While noting with appreciation that the privacy of children being prosecuted in the Children Court is protected, the Committee is concerned that children prosecuted in higher courts are not provided with the same protection as those in the Children Court.

27. The Committee recommends that the State party take necessary measures to extend the protection of privacy to all legal proceedings involving children.

4. Family Environment and Alternative Care

(arts. 5; 18 (paras. 1-2); 9-11; 19-21; 25; 27 (para.4); and 39 of the Convention)

Parental responsibilities

28. The Committee welcomes a number of developments regarding family support structures, in particular the establishment of the Family Support Agency, the introduction of quarterly payments for families with children under the age of six years

and the phased extension of paid maternity leave. However, the Committee remains concerned that these structures lack a broad-based and child-centered approach and that the responsibility for support programmes and the delivery of support services is allocated to different governmental authorities.

29. The Committee recommends that the State party:

- (a) Undertake an extensive review of the support services provided under the different governmental departments to assess the quality and outreach of these services and to identify and address possible shortcomings; and**
- (b) Extend the social work services provided to families and children at risk to a seven day, 24-hour service.**

Family reunification

30. The Committee notes that the Refugee Act of 1996 provides for an adequate legal framework for family reunification. However, family reunification in accordance with article 10 of the Convention also applies to other situations, including migration. The Committee is concerned that family members seeking reunification do not have access to procedural information, and that the principle of the best interests of the child is not taken into account in the decision-making process.

31. The Committee recommends that the State party:

- (a) Consider reviewing the definition of family in the Refugee Act of 1996 to better correspond to the developing understanding of the family;**
- (b) Consider establishing a legal framework for family reunification outside situations under the Refugee Act; and**
- (c) Ensure that the principle of the best interests of the child is always a primary consideration when making decisions involving children under any legal or administrative procedures.**

Alternative care for children without parental care

32. The Committee welcomes the establishment of the Social Services Inspectorate which conducts inspections of foster care and residential centers operated by statutory and non-statutory agencies for children without parental care. However, the Committee is concerned that the Social Services Inspectorate has not yet been established on a statutory basis, lacks the necessary resources to undertake its mandated functions and does not protect all children without parental care.

33. The Committee recommends that the State party:

- (a) Consider measures to create a statutory basis for the Social Services Inspectorate to function and extend its mandate to all children without parental care, irrespective of the care required; and**
- (b) Strengthen its efforts to ensure and provide for follow-up and after-care to young persons leaving care centers.**

Adoption

34. The Committee remains concerned that the legislation in place does not fully correspond to international standards, particularly with respect to protection in inter-country adoptions, and does not take the best interests of the child into consideration. The Committee is also concerned that the measures undertaken to review current legislation are slow.

35. The Committee recommends that the State party expedite its efforts to enact and implement the legislative reforms, ensure that all relevant legislation is in conformity with international standards, and that the best interests of the child are a primary consideration.

Violence, abuse and neglect

36. While welcoming efforts undertaken by the State party to respond to the issue of child abuse and neglect including the creation of guidelines on reporting child abuse, thorough investigations of all reported cases of child abuse, and launching a nationwide awareness-raising campaign on child sexual abuse, the Committee remains concerned that no comprehensive national strategy or measures for the prevention of child abuse are in place and that there are delays in accessing support services.

37. In light of article 19 of the Convention, the Committee recommends that the State party:

- (a) Continue reviewing the Children First Guidelines and consider their establishment on a statutory basis;**
- (b) Ensure that all reported cases of abuse and neglect are adequately investigated and prosecuted and that victims of abuse and neglect have access to counseling and assistance with physical recovery and social reintegration;**
- (c) Develop a comprehensive child abuse prevention strategy, including developing adequate responses to abuse, neglect and domestic violence; facilitating local, national, and regional coordination, and conducting sensitization, awareness-raising and educational activities; and**

- (d) **Ensure that evaluation of all employees and volunteers working with children is undertaken prior to recruitment, and that adequate support and training is provided for the duration of their employment.**

38. In the context of the Secretary-General's in-depth study on the question of violence against children, the Committee recommends that the State party use the outcome of the Regional Consultation for Europe and Central Asia held in Slovenia from 5 to 7 July 2005 as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical, sexual or mental violence, and for gaining momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse. In addition, the Committee would like to draw the States party's attention to the report of the independent expert for the United Nations study on violence against children (A/61/299) and to encourage the State party to take all appropriate measures to implement overarching recommendations as well as setting-specific recommendations contained in this report.

Corporal punishment

39. While noting that the prohibition of corporal punishment within the family is under review and that parental educational programmes have been developed, the Committee is deeply concerned that corporal punishment within the family is still not prohibited by law.

40. The Committee reiterates its previous recommendation (CRC/C/15/Add.85 paragraph 39) and urges the State party to:

- (a) **Explicitly prohibit all forms of corporal punishment in the family;**
- (b) **Sensitize and educate parents and the general public about the unacceptability of corporal punishment;**
- (c) **Promote positive, non-violent forms of discipline as an alternative to corporal punishment; and**
- (d) **Take into account the Committee's General Comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/GC/2006/8).**

5. Basic Health and Welfare

(arts. 6; 18, para.3; 23; 24; 26; 27, paras 1-3 of the Convention)

Children with Disabilities

41. While welcoming legislative and policy developments such as the Disability Act of 2005 and the National Disability Strategy of 2004, the Committee remains concerned that the legal framework inadequately addresses the specific needs of

children with disabilities as well as their access to necessary health services and educational facilities and that many of the provisions of the Children Act have not been fully enacted.

42. The Committee recommends that the State party:

- (a) Adopt an inclusive and rights-based legal framework that addresses the specific needs of children with disabilities and implement all relevant provisions of existing legislation related to children with disabilities; and**
- (b) Undertake awareness-raising campaigns with the involvement of children which focus on prevention and inclusion, available support and services for children with disabilities, as well as combating negative societal attitudes towards children with disabilities.**

43. The Committee also urges the State party to review existing policies and practices in relation to children with disabilities, giving due attention to the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee on its day of general discussion on the rights of children with disabilities (see CRC/C/69).

Health and health services

44. The Committee welcomes the commitments undertaken by the State party in a number of policy documents, including Goal No. 3 of the National Children's Strategy and the development of a Primary Care Strategy. The Committee remains concerned, however, about the lack of a comprehensive legal framework in that regard and the absence of statutory guidelines safeguarding the quality of and access to health care services as stipulated in article 24 of the Convention, in particular for children in vulnerable situations.

45. The Committee recommends that the State party:

- (a) Adopt all-inclusive legislation that addresses the health needs of children;**
- (b) Ensure that availability and quality of health care services are maintained throughout the country by providing targeted resources and by establishing statutory guidelines for the quality of these services;**
- (c) Ensure that the resources used for existing health care services for children are used in a strategic and coordinated manner benefiting all i.e. the public, the community and the voluntary sectors; and**

- (d) Pay special attention to needs of refugee and asylum-seeking children, and children belonging to the Traveller community, inter alia, by implementing the existing National Strategy for Traveller Health.**

46. While welcoming the Mental Health Act of 2001 and noting that the State party has recognized the lack of adequate programmes and services related to the mental health of children and their families, the Committee is concerned that children with mental health difficulties still do not access existing programmes and services for fear of stigmatization, and that some children up to 18 years are treated with adults in psychiatric facilities.

47. The Committee reiterates its previous recommendation (CRC/C/15/Add.85 para. 20 and 38), and recommends that the State party:

- (a) Make full use of the findings and implement recommendations of the Expert Group on Mental Health Policy appointed by the Minister of State at the Department of Health in 2003;**
- (b) Undertake awareness-raising and sensitization measures to prevent stigmatization and ensure that focus is given to early intervention programmes; and**
- (c) Continue its efforts to ensure that children with mental health difficulties benefit from specific services designed for children under 18 years of age.**

Adolescent health

48. While noting a number of policy measures undertaken to address alcohol consumption by children, including the National Alcohol Policy, the Strategic Task Force on Alcohol, and the attention paid to the issue by the Parliamentary Committee on Children and Young People, the Committee remains concerned about the high level of alcohol consumption by adolescents.

49. The Committee recommends that the State party strengthen its efforts to address alcohol consumption by children, by, inter alia, developing and implementing a comprehensive strategy which should include awareness-raising, the prohibition of alcohol consumption by children and advertising that targets children. In this regard the Committee also draws the State party's attention to the Committee's General Comment No. 4 on adolescent health (CRC/GC/4/2003).

50. While welcoming the creation of a Strategic Task Force on Alcohol, the Committee is concerned about the reported increase in suicide rates among boys and adolescent males. The Committee is also concerned about the apparent link between underage substance abuse and the suicide rate.

51. The Committee urges the State party to implement the new ten-year National Strategy for Action on Suicide Prevention and the recommendations from the second report of the Strategic Task Force on Alcohol.

52. While noting that Social, Personal and Health Education is incorporated into the curricula of secondary schools, the Committee is concerned that adolescents have insufficient access to necessary information on reproductive health. The education is optional and parents can exempt their children from such education. The Committee is also concerned that sexually transmitted infections are reported to have increased noticeably during the last 10 years and young girls are in particular risk.

53. The Committee recommends that the State party strengthen its efforts to enhance access to adolescent-specific reproductive and sexual health information and services, and that these are not limited to school curricula but can also be accessed within the adolescent daily living environment, in addition to information and awareness-raising campaigns.

Harmful traditional practices

54. The Committee notes with concern that some immigrant communities continue to practice female genital mutilation (FGM) in Ireland. The Committee strongly emphasizes that FGM is a violation of the Convention.

55. The Committee urges the State party to continue its efforts to end the practice of FGM, for example, through prohibiting FGM by law, including the possibility of extra-territorial jurisdiction, and implementing targeted programmes which sensitize all segments of the population about its extremely harmful effects. The Committee recommends that the State party involve and mobilize all relevant partners at the local level, including teachers, midwives, traditional health practitioners and religious and community leaders to prevent the practice of FGM. It also draws the attention of the State party to the recommendations adopted on the Day of General Discussion on the girl child (CRC/C/38).

Standard of living

56. The Committee recognizes that the favorable economic development has contributed to the reduction of the overall poverty level. The Committee remains however concerned that a number of children in particularly vulnerable situations are living in households where the income remains significantly lower than the national median income.

57. The Committee recommends that the State party:

- (a) Effectively implement its National Anti-Poverty Strategy and strengthen its support to families living in economic hardship in order to ensure that poverty is reduced and children are protected against the negative impact of economic hardship on their development;**

- (b) **Introduce a supplement to the existing universal child benefit payments as an additional and targeted allowance to assist the families which experience highest levels of poverty;**
- (c) **Implement fully existing policies and strategies and increase budgetary allocations for and subsidization of services, including childcare, healthcare and housing, for families with children who are particularly vulnerable; and**
- (d) **Increase investments in social and affordable housing for low-income families.**

6. Education, Leisure and Cultural Activities

(arts. 28, 29 and 31 of the Convention)

Education, including vocational training and guidance

58. The Committee welcomes the State party's efforts to develop and strengthen the legal and policy framework for the right to education. The Committee is, however, concerned that the "de facto" cost of education and materials in public primary schools is in some instances the responsibility of parents; the views and specific needs of children are not always adequately taken into account; and that particularly high dropout rates exist among children belonging to the Traveller community and children with disabilities.

59. The Committee recommends that the State party:

- (a) **Continue undertaking measures to create an educational environment where the special needs of the child are taken into consideration, inter alia, by undertaking appropriate professional assessment of the specific needs of children, providing technical and material support for children with special needs, ensuring children in schools have the right to be heard in all matters concerning their well-being, and by continuing efforts to reduce overall class sizes to provide education to all children on an equal footing;**
- (b) **Ensure that budgetary allocations are also directed at improving and upgrading school buildings, recreational equipment and facilities, and the sanitary conditions in schools;**
- (c) **Ensure that necessary measures are taken to combat the phenomenon of bullying and that its consequences are dealt with in a responsive and child-sensitive manner; and**

- (d) Publish and disseminate the prepared Traveller Education Strategy and undertake training activities for teachers in order to sensitize them to Traveller issues and inter-cultural approaches.**

60. The Committee reiterates the concern raised by the Committee on the Elimination of Racial Discrimination (CERD/C/IRL/CO/2) that non-denominational or multi-denominational schools represent less than 1 per cent of the total number of primary education facilities.

61. The Committee encourages the State party to take fully into consideration the recommendations made by the Committee on the Elimination of Racial Discrimination (CERD/C/IRL/CO/2, para. 18) which encourages the promotion of the establishment of non-denominational or multi-denominational schools and to amend the existing legislative framework to eliminate discrimination in school admissions.

Leisure, recreation and cultural activities

62. While welcoming initiatives such as the National Play Policy which contains several activities and responsibilities for a number of government departments, local authorities and health boards and enhances the opportunities for children to enjoy leisure, recreation and cultural activities, the Committee is concerned that little political and financial importance is given to the creation of recreational facilities and that increasing housing demands may further hamper the developments of play grounds and public space.

63. The Committee recommends that the State party place more emphasis on the creation of facilities for children to enjoy leisure, recreation and cultural activities.

7. Special Protection Measures

(arts. 22; 30; 38; 39; 40; 37 (b)-(d); 32-36 of the Convention)

Refugee and asylum seeking children

64. While noting the recent developments regarding asylum-seeking processes through the Immigration, Residency and Protection Bill, 2006, the Committee is concerned that unaccompanied children or children separated from their parents might still not receive adequate guidance, support and protection during the asylum process, in particular with respect to access to services and an independent representation.

65. The Committee recommends that the State party take necessary measures to bring the policy, procedures and practice into line with its international obligations, as well as principles outlined in other documents, including the Statement of Good Practices produced by the United Nations High Commissioner for Refugees and Save the Children. The Committee further encourages the State party to ensure that the same standards of and access to support services applies whether the child is in the care of the authorities or their parents. The Committee also draws the attention

of the State party to its General Comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6).

Administration of juvenile justice

66. The Committee welcomes the fact that in the Children Act 2001, the age of criminal justice was raised from 7 to 12 years with a rebuttable presumption that the minimum age of responsibility is 14, however regrets that this part of the Act did not enter into force. Furthermore, the Committee is very disappointed that this part of the Children Act has transferred to the Criminal Justice Act 2006, and that the age of criminal responsibility was lowered to 10 years for serious crimes.

67. The Committee recommends that the State party reinstate the provisions regarding the age of criminal responsibility as established in the Children Act 2001.

68. The Committee welcomes the establishment of the Irish Youth Justice Service under the Department of Justice, Equality and Law Reform, yet regrets that it is not established on a statutory basis. The Committee is also concerned that the Anti-Social Behaviour Orders provided for in the Criminal Justice Act 2006 will have the effect of bringing “at risk” children closer to the criminal justice system, especially as a breach of an Order is considered a crime. Furthermore, the Committee is concerned that the wide discretion of the judges as to the type and content of an Order may lead to measures that are disproportionate to the impugned behaviour.

69. The Committee recommends that:

- (a) The State party provides a statutory basis for the Irish Justice Service and that the Justice Service give high priority to the drafting and implementation of a child-oriented, rights-based Youth Justice Policy based on the Convention; and**
- (b) the Anti-Social Behaviour Orders are closely monitored and are only used as a last resort after preventive measures (including a diversion scheme and family conferences) have been exhausted.**

70. The Committee notes with appreciation the establishment of the Garda Diversion Programme provided for in the Children Act 2001, brought into force in 2002. However, the Committee is concerned that the 2006 Act extends the programme to children from the age of 10 years who have committed “anti-social behaviour.” The Committee is further concerned that admission to the programme can be considered as a sentence in future criminal proceedings.

71. The Committee recommends that children who have committed “anti-social behaviour” cannot be diverted to the Garda Diversion Programme, and that admission to the programme can never be considered as a sentence in future criminal proceedings. The Committee further urges the State party to implement a

set of alternative measures as a matter of priority to ensure that the deprivation of liberty is used only as a last resort and for the shortest possible time.

72. While noting with appreciation the intention of the State party to provide all detained children up to the age of 18 in separate detention facilities – so-called Children Detention Schools – the Committee is deeply concerned that children aged 16 and 17 years are detained in St. Patrick Institution which is a closed, medium security detention centre for males aged 18 to 21 years, with no facilities for education. In addition, the Committee is concerned that the Ombudsman for Children is excluded from investigating complaints emerging from that institution and undertaking inspections of some police stations.

73. The Committee recommends that the State party make every effort to use detention as a last resort. Where detention is deemed unavoidable, the Committee recommends that the State party provide children under the age of 18 with separate detention facilities. The Committee encourages the State party to make every effort in order to include in the investigation and inspection mandate of the Ombudsman for Children all places of detention where children are currently held.

Sexual exploitation and sexual abuse

74. While noting the Sex Offenders Act of 2001 that provides with a comprehensive protection of the public against sex offenders, the Committee is concerned about the lack of information concerning children victims of prostitution and on child pornography.

75. The Committee recommends that the State party collect information and undertake research on child prostitution, pornography and other forms of sexual exploitation and sexual abuse of children with a view to developing targeted measures, and requests the State party to provide detailed information in that respect in its next report.

Sale and trafficking

76. While noting the Child Trafficking and Pornography Act of 1998 and the new Trafficking in Persons and Sexual Offences Bill, 2006, the Committee regrets the lack of specific information on the situation of children victims of abduction and sale or traffic for any purpose or in any form.

77. In line with articles 34 and 35 of the Convention, the Committee reiterates the recommendation by the Committee on the Elimination of Discrimination Against Women (CEDAW/C/IRL/CO/4-5, 22 July 2005) on, inter alia, the adoption and implementation of a comprehensive strategy to combat trafficking, and the measures to be put in place for the physical and psychological recovery and social reintegration of victims of trafficking, including the provision of shelter, counseling and medical care. The Committee requests the State party to provide in its next

report further information and data on trafficking in particular with respect to children.

Children belonging to minorities

78. The Committee notes the information provided in the State party report, in particular in Chapter III under non-discrimination and child welfare, and the written replies to the list of issues in particular with respect to the report of the High Level Group on Traveller Issues. The Committee remains concerned, however, that adequate recognition, action and positive measures have not yet been taken to enhance the enjoyment of the rights of children belonging to the Traveller community and in particular to facilitate their access to education, housing and health services.

79. The Committee recommends that the State party:

- (a) Work more concretely towards the recognition of the Traveller community as an ethnic group as called for by the Committee on the Elimination of Racial Discrimination (CERC/C/IRL/CO/2 para.20);**
- (b) Undertake or use existing research or comprehensive needs assessment with a particular focus on children belonging to the Traveller community in the fields of health, housing and education to further serve as a basis for policies and strategies and concrete measures for the improvement of the well-being of the children;**
- (c) Implement the recommendations of the Task Force on the Traveller community; and**
- (d) Provide in its next report detailed information on measures taken in order to enhance the enjoyment of the rights of children belonging to the Traveller community, in particular with regard to enjoyment and access to education, health services and housing facilities.**

80. The Committee regrets the lack of specific information in the State party report on efforts to promote Irish language and culture among children and young people, and efforts made to prevent marginalization and social exclusion of Roma children.

81. The Committee requests the State party to provide further detailed information in its next report.

8. Optional Protocols to the Convention on the Rights of the Child

82. The Committee looks forward to receiving, as indicated by the State party, the initial report on the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts which was due in December 2004.

83. The Committee welcomes the signature of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child pornography and prostitution in 2000 and recommends the ratification of this Optional Protocol in accordance with the intention of the State party.

9. Follow-up and dissemination

Follow-up

84. The Committee recommends that the State party to take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to relevant Departments, Oireachtas (national parliament), and to relevant local authorities, for appropriate consideration and further action.

Dissemination

85. The Committee further recommends that the second periodic report and written replies submitted by the State party and related recommendations (concluding observations) adopted by the Committee be made widely available, including through Internet (but not exclusively), to the public at large, civil society organizations, youth groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

10. Next report

86. The Committee invites the State party to submit a consolidated third and fourth report by 27 April 2009 (that is, the due date of the fourth report). This is an exceptional measure due to the large number of reports received by the Committee every year. This report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.
