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Summary record of the 33rd meeting

Held at the Palais Wilson, Geneva, on Tuesday, 9 June 2015, at 10 a.m.

Chairperson: Mr. Sadi

Contents

Consideration of reports:

- (a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Third periodic report of Ireland (continued)

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The meeting was called to order at 10.05 a.m.

Consideration of reports:

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Third periodic report of Ireland (continued) (E/C.12/IRL/3; E/C.12/IRL/Q/3 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Ireland took places at the Committee table.*
2. **Mr. Martynov** requested the delegation to provide recent disaggregated data on the rates of long-term unemployment, youth unemployment and unemployment among persons with disabilities. He asked what the level of compliance was with the requirement that 3 per cent of jobs in public service bodies should be held by persons with disabilities, what measures were taken in the event of non-compliance and whether the Government planned to extend the requirement to the private sector.
3. In reference to paragraph 92 of the State party report (E/C.12/IRL/3), he asked why persons with disabilities had not been included in the list of cohorts deemed to be most at risk of long-term unemployment. He invited the delegation to clarify whether employers were obliged to provide reasonable accommodation to qualified employees with disabilities and when the Comprehensive Employment Strategy for People with Disabilities would be published. He asked why the State party had not yet ratified the Convention on the Rights of Persons with Disabilities and when it intended to do so.
4. He said that he would appreciate statistics allowing for a direct comparison between the minimum wage and the cost of living and asked whether the Government had considered indexing the minimum wage to inflation. The delegation should explain why minimum wage exemptions had been introduced and whether there were plans to remove them. It should also indicate what percentage of workers were paid the minimum wage and whether employers were still legally entitled to offer monetary compensation in lieu of a rest day.
5. **Mr. Ribeiro Leão** asked whether a minimum wage of 8.65 euros per hour was enough, bearing in mind that Eurostat had estimated the threshold for low pay in Ireland at 12.20 euros in 2010. He also wished to know how the Government intended to regulate zero-hour contracts to ensure that workers and their families had a decent standard of living. Lastly, he would welcome any information on measures taken to bridge the gender pay and unemployment gaps.
6. **Ms. Bras Gomes** invited the delegation to elaborate on how the Irish Youth Guarantee would help address youth unemployment. Noting the importance of setting the minimum wage at a level that guaranteed a decent standard of living, she enquired about the role of the Low Pay Commission, as described in paragraph 30 of the replies to the list of issues (E/C.12/IRL/Q/3/Add.1).
7. She said that she would appreciate the delegation's thoughts on the issue of zero-hour contracts from the point of view of social protection; the reluctance of migrant workers to access social assistance benefits; the state of the social security system and the impact of austerity measures; and the habitual residence condition for receiving certain types of support. Lastly, she asked what accounted for the high number of successful social welfare appeals, which suggested that the initial decision-making process was flawed.
8. **Mr. Pillay** (Country Rapporteur) asked what steps were being taken to enable asylum seekers to work and requested additional information on the Industrial Relations

(Amendment) Bill and the National Minimum Wage (Low Pay Commission) Bill. He invited the delegation to indicate whether the Commission could deal with wage-related complaints and to explain how its recommendations would be implemented.

9. **Mr. De Schutter** said that he would be grateful for information on the review of the Mental Health Act 2001. It would be useful to know what recommendations had been made by the expert group entrusted with the process, particularly in relation to the issue of informed consent.

10. Regarding education, the delegation should state whether the Education (Admission to Schools) Bill allowed religious schools to give priority to applicants of a certain faith or to exclude non-believers altogether.

11. **Mr. Ribeiro Leão** asked whether public institutions promoted the participation of refugees and asylum seekers in the cultural life of the community.

12. **Mr. Kerdoun** asked what legislative and other measures were being taken to eliminate discrimination in schools. He wished to know when the Education (Admission to Schools) Bill would be adopted and what guarantees of equal access to education were provided for Travellers and persons with disabilities. He would welcome information on any preliminary results of the Intercultural Education Strategy for 2010–2015. The delegation should also indicate whether there were plans to establish secular and multid denominational schools, and comment on the impact of austerity measures on school staff numbers and the availability of educational resources.

13. **Mr. Kedzia** asked what was being done to ensure that children educated outside the school setting received the minimum education required by the Constitution and the Education Welfare Act 2000. He enquired about the compatibility of religious patronage with article 42, paragraph 1, of the Constitution, which stipulated that parents had a duty to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children. He asked the delegation to describe the effect of religious patronage on school admissions and the selection of teachers.

14. He said that he would welcome information on the legal status of Travellers and on their access to protection schemes. Lastly, the delegation should indicate whether it was true that communities in some rural areas had problems with their broadband Internet access and, if so, what was being done to rectify the situation.

15. **Mr. Uprimny Yepes**, noting that the school dropout rate among Travellers was very high, asked what steps were being taken to adapt educational programmes to the needs of minority groups. In that connection, he asked whether the planned recognition of Travellers as an ethnic group was viewed as a priority by the Government.

16. According to data at the Committee's disposal, austerity measures had led to a significant decrease in the quality of education, particularly in low-income areas. The delegation should comment on the matter and explain what was being done to protect education rights in the face of spending cuts.

17. **Ms. Bras Gomes** enquired whether there were measures for the recognition of minority cultures and, if not, what the obstacles to such recognition were.

18. **The Chairperson**, speaking as a member of the Committee, said that an overarching issue was perhaps the lack of a clear separation between church and State in the State party, at least when compared with other European countries. In that connection, he wondered what happened to minority rights in a unicultural society like that of Ireland. He pointed out that, in times of austerity, budget areas like education and health should be protected.

19. **Mr. Pillay** asked why all eligible workers were not covered by maternity benefits and why paternity leave was not provided for in law. He would also like to know if

progress had been made on the proposed domestic violence legislation, especially in view of the significant cuts to services for victims.

20. He enquired what measures, if any, protected tenants from eviction because of unsustainable rents and whether those measures enhanced security of tenure and rent stability. In view of the rise in homelessness from lack of rent supplements, he wondered whether there were plans to accelerate the construction of social housing. He asked why, given a mortgage arrears crisis that had resulted in thousands of persons becoming at risk of losing their homes, the Code of Conduct on Mortgage Arrears had been amended to the detriment of borrowers and whether the Government intended to revise it to allow borrowers to appeal lender decisions to an independent adjudicator and to obtain adequate access to legal and financial advice. It would also be useful to know what measures had been taken to address the problem of substandard housing conditions.

21. Referring to the widening gap between those with and without insurance, he asked how the Health Service Executive apportioned access to services to those two kinds of patient. He enquired what progress had been made in introducing universal health services and community-based health services, in particular for persons with mental disabilities, whether the Mental Health Act 2001 had been reformed and to what extent the Government's policy for the development of mental health services, "A Vision for Change", had been implemented in relation to persons institutionalized on account of mental disabilities. He also wished to know what measures were taken to meet the mental health needs of asylum seekers and how the health concerns of the Roma and Traveller communities were addressed.

The meeting was suspended at 10.55 a.m. and resumed at 11.15 a.m.

22. **Mr. Sherlock** (Ireland) said he wished to reiterate that health, education and social welfare spending had been largely protected during the crisis. In fact, there had been no cuts to health spending between 2011 and 2014, the social welfare budget had significantly increased during the crisis period and more teachers had been hired to meet demographic needs. In addition, the Government had replaced dilapidated prefabricated buildings with mortar and brick, so that all children, regardless of religious creed, could be taught in classrooms that were conducive to learning and could have equal opportunities as citizens of Ireland.

23. The Constitution was considered a living document; it guaranteed, as the Supreme Court had consistently reiterated, freedom of conscience to all persons of all religions as well as to those with no religion.

24. **Ms. O'Hare** (Ireland), replying to questions raised at the previous meeting regarding State party obligations and domestic application of the Covenant, said the Government did indeed understand that the obligation to provide redress for discrimination in relation to the exercise of Covenant rights was not subject to "progressive realization". She was confident in stating that such redress was available in Ireland. With regard to the explicit statutory protection afforded under the Employment Act and the Equal Status Act, she wished to confirm that, in the view of the Government, the grounds of non-discrimination established in those laws reflected the content of the Covenant. The Irish were proud of article 40.1 of their Constitution, which stated that all citizens, as human persons, were equal before the law while also providing that that should not be held to mean that the State should not, in its enactments, have due regard to differences of capacity, physical and moral, and of social function. Article 40.1 was the ultimate non-discrimination clause and all other articles of the Constitution must be interpreted consistently with it. The Convention on the Constitution had nevertheless recommended that the Government should consider the incorporation of the Covenant into domestic law; the question was pending.

25. **Mr. Desmond** (Ireland) said that the new model of support for persons with disabilities entailed moving them from congregated settings to community-based ones. Many persons with disabilities had been moved in recent years and moving many more was a priority of the Government. In order to be moved from an institution, however, each resident must have a person-centred plan that would enable him or her to live a properly supported life within the community. The 2011 Report of the Working Group on Congregated Settings predated the review of disability services carried out in 2013, which provided the framework for reforming the delivery of disability services. One facet of the implementation strategy was to give effect, as quickly as possible, to the reforms recommended in the Congregated Settings Report.

26. The Government had also made a commitment to providing the safest possible environment for persons with disabilities in residential institutions and to according statutory status to standards for their treatment, so as to ensure that disability services were subject to inspection by the Health Information and Quality Authority (HIQA). To that end, standards related to care and registration had been enacted in late 2013. All residents of institutions should be able to receive the best quality care and have their basic human rights, including their right to be treated with courtesy and dignity, respected.

27. In the first quarter of 2015, HIQA had inspected about two thirds of all designated centres for persons with disabilities; its report showed that good practices emphasizing support and care for residents prevailed. The Department of Health had been requested to develop action plans for any institutions about which serious concerns had been raised, and a comprehensive programme was being developed to achieve a standard level of care delivery in compliance with the relevant regulations.

28. In late 2014, HIQA had inspected the Áras Attracta residential centre for persons with intellectual disabilities, giving it a passing grade. A media inquiry had, however, revealed abusive practices. A review had been carried out by an independent expert and a set of national summits had been held to discuss how to avoid such practices in future. A six-step programme had been set up, within the context of a national programme to protect vulnerable persons at risk of abuse.

29. The policy document “A Vision for Change”, which had been introduced in 2006, was still considered valuable, although the number of psychiatric institutions had fallen considerably since that time and a less medicine-centred approach to treatment had been adopted. Older institutions had been replaced with new state-of-the-art facilities, including the Phoenix Care Centre in Dublin. Mental health services were progressively moving towards a community health model, and new issues were being addressed, such as eating disorders, the psychiatry of old age and issues related to intellectual disabilities.

30. The Government allocated a substantial budget to mental health. In 2014, there had been an increase in the number of mental health staff, for the first time in many years. The current objective was to standardize child and adolescent mental health systems throughout the country. “A Vision for Change” would soon expire, and plans were being made to update and improve it.

31. The Mental Health Act 2001 was also being reconsidered, with a view to incorporating a person-centred approach; that was currently a priority of the mental health services. The Report of the Expert Review Group of the Mental Health Act, published in 2015, contained 165 recommendations in a broad range of areas, including one related to the use of electroconvulsive therapy. Regarding the issue of free and informed consent, the report recommended moving away from the paternalistic model, including the “best interests” concept, and towards a stronger voice for the individual concerned. Access to tribunals for patients lacking the capacity to express their views would be safeguarded. Another recommendation provided that persons must no longer be detained purely because

they had a significant intellectual disability. Mental illness would be defined as a complex and changeable condition, and due respect would be given to a person's understanding of his or her own illness. Persons lacking the capacity to make decisions would be assisted in so doing. A voluntary patient would be defined as someone capable of making decisions about his or her own admission and treatment and would have to give informed consent on an ongoing basis.

32. With respect to access to drugs, no distinction was made between persons with disabilities, including intellectual or mental disabilities, and other members of the population. Drugs and medicines were available to all persons in Ireland under several health schemes: the medical card, which gave full, reimbursable access to services and medicines; the Drugs Payment Scheme; and the long-term illness scheme. Medicines and drugs were required to meet certain criteria to be eligible for reimbursement. Under regulations established in 2013, pharmaceutical companies must provide a dossier of evidence for every drug they offered. The Health Service Executive negotiated with suppliers to see if agreement could be reached on the cost of drugs. There were instances of extremely expensive treatments being funded by the Health Service Executive. The Government had, by and large, a very good record and accepted a broad range of medicines for reimbursement.

33. Female genital mutilation was the subject of legislation and a matter that the Government needed to address. A special clinic had been opened in Dublin for victims of the practice and a resource pack was available to health-care professionals. According to census figures, an estimated 3,800 women and girls in Ireland were considered to have undergone female genital mutilation.

34. Numerous measures had been adopted to respond to the specific health-care needs of the Traveller community. For example, the National Traveller Health Advisory Forum had devised comprehensive health strategies for the nationwide Traveller health units established to uphold Travellers' right to high-quality medical care.

35. **Mr. Ó Briain** (Ireland) said provisional figures indicated that the overall gender pay gap had risen from 11.4 per cent to 13.6 per cent between 2011 and 2012. The gender pay gap had remained unchanged in the private sector but had continued to decrease in the public administration, defence, health and social work sectors. A 29.9 per cent increase had been noted in the education sector, which was a cause for concern and required further investigation. A number of initiatives had already been introduced to increase the representation of women in senior positions and leadership roles in education, and efforts would continue to address the complex challenges associated with reducing the gender pay gap in all sectors. Concerning paternity leave, the Government intended to introduce two weeks' paid leave for fathers in the 2016 budget.

36. The Government remained committed to amending national legislation to define domestic violence as a separate offence and intended to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) at the earliest opportunity. In 2013, the criminal courts had ruled on 567 rape cases and 691 sexual offence cases and had granted 1,167 barring orders and 522 interim barring orders. In addition, some 2,092 sexual offences had been brought before the district courts.

37. Regarding access to the labour market for persons with disabilities, the 2011 census had shown that 33 per cent of persons with disabilities of working age were employed, compared with 66 per cent of their non-disabled peers. The Government would build on that success through its comprehensive employment strategy for persons with disabilities, which had been established in cooperation with civil society organizations. Provisions on reasonable accommodation had been introduced under the 1998 Employment Equality Act.

The 3 per cent quota for the employment of persons with disabilities in the public sector had been achieved and would subsequently be increased to 6 per cent. While the Government was seriously considering ratification of the Convention on the Rights of Persons with Disabilities, it wished to ensure that national legislation was fully in line with the instrument before Ireland became a State party. A road map with exact timelines for ratification would be drawn up and put before the parliament for consideration within the next three months.

38. Considerable effort had been directed towards including asylum seekers in cultural life, particularly by sporting associations. However, national labour legislation currently prohibited their employment. As to the legal recognition of the Traveller community as a national ethnic group, the Government had recently held discussions with Traveller representatives to garner their views and to discuss the implications of changing their legal status.

39. **Mr. Walsh** (Ireland) said that the Government had made adjustments to the 2015 budget to counteract the 0.8 per cent drop in household incomes recorded following the 2014 budget, particularly for low-income families. In addition, steps had been taken to increase the amount of State pensions, social security benefits and childcare allowances for the most vulnerable groups. As had already been reported, the unemployment rate had returned to under 10 per cent by 2015. Moreover, the number of long-term unemployed persons had dropped significantly. National initiatives had been launched to create additional jobs and further reduce the unemployment rate, including the Pathways to Work strategy. In-work poverty remained at an all-time low. All employees working five hours or more were eligible to join the national social security scheme, including the State pension.

40. Since 1997, Ireland had led the way in setting poverty targets. In 2012, the National Social Target for poverty reduction had been revised to take account of the impact of the recession and to bring it into line with the European Union 2020 Poverty Target. The Government intended to reduce the proportion of the population in consistent poverty to 4 per cent by 2016 and to 2 per cent or less by 2020. Subtargets included lifting 200,000 persons out of combined poverty and 70,000 children out of consistent poverty by 2020. In 2013, the consistent poverty rate had stood at 8.2 per cent; however, that figure was expected to fall as the economy was improved and more jobs were created. The at-risk-of-poverty rate, currently 15.3 per cent, was lower than it had been prior to the economic crisis. The National Action Plan for Social Inclusion 2006–2016 was being updated in consultation with civil society and would be extended up to 2017, at which point poverty strategies and targets would be assessed and new measures considered if necessary.

41. **Mr. Sheridan** (Ireland) said that Ireland had one of the highest national minimum wages in the European Union. In total, 4.4 per cent of employees, or over 70,000 persons, were currently paid the minimum wage, at either the experienced adult worker rate or the trainee rate.

42. The Low Pay Commission was to be established as an independent, statutory body. The relevant bill was currently before the parliament and provided that the Commission was responsible for examining and making recommendations relating to the national minimum hourly rate of pay on an annual basis. The aim in that regard was to set a fair, sustainable and adjustable rate that would be progressively increased without having an overly negative impact on employment or competitiveness. The Commission had been set up on an interim basis in February 2015, had carried out public consultations with all stakeholders and received a large number of submissions. It would be presenting its first recommendations by mid-July 2015.

43. There were no plans to eliminate the exempted categories of workers listed in the National Minimum Wage Act 2000. Such categories included close family members of

employers as well as apprentices. The principle of excluding a close relative of an employer from certain employment rights had been established prior to the adoption of the legislation on the minimum wage. Flexible working arrangements involving relatives were a practical option in a family business, reflected national custom and practice and should not therefore be outlawed.

44. **Mr. O'Leary** (Ireland) said that, under Irish constitutional law, parents could choose to send their children to school or opt for homeschooling. The Child and Family Agency was responsible for ensuring that children either attended a recognized school or otherwise received a minimum education. In April 2015, the number of homeschooled children registered by the Agency had stood at 1,032. Prior to registration, the Agency assessed whether children were receiving the necessary level of education.

45. The Government had set up the Forum on Patronage and Pluralism in the Primary Sector to examine how best to adapt the education system to changes in Irish society; the Forum had issued a report in 2012. The New Schools Establishment Group also considered issues relating to diversity of patronage. Between 2011 and 2016, 20 new multid denominational primary schools and 26 new post-primary level schools, 22 of which were multid denominational, had been or would be opened in response to demographic needs. In areas with stable school-age populations, where building new schools was not an option, a process of patronage divestment had been initiated. That involved carrying out surveys of parental opinion and identifying patrons willing to divest themselves of the patronage of schools. To date, divestment had been carried out at eight schools.

46. Draft legislation designed to ensure that school admissions and enrolment policies were fair and non-discriminatory would be adopted in the near future. In 2014, guidelines had been issued for schools on how best to respond to changes within the school-age population and ensure an inclusive approach to education. A Traveller Education Strategy had been put in place, the main principles of which were inclusiveness and integration, while budgetary provision for Traveller pupils had been mainstreamed. The number of teachers had risen by some 1,400 in 2013 and there had been a similar rise in 2014. Furthermore, the number of special needs assistants had increased by 365, to over 1,300. Annual special needs education expenditure stood at around 1.37 billion euros, about 15 per cent of the overall education budget.

47. **Mr. Quinlan** (Ireland) said that security of tenure for tenants in private housing was regulated by the Residential Tenancies Act 2004, which provided four-year statutory protection for tenants who had been in occupation of a dwelling for a continuous period of six months. The Private Residential Tenancies Board had launched a campaign to make tenants more aware of their rights. Landlords could serve a notice of termination only in certain circumstances, for example when a tenant failed to meet his or her obligations or a property was to be put up for sale. Landlords had to give a minimum of 112 days' notice to quit. The Private Residential Tenancies Board provided a mechanism for the resolution of disputes relating to tenants' rights and rent. Rents could not be set higher than the current market rate and could only be reviewed once a year, unless there had been a substantial change in the nature of the accommodation. Tenants must be given at least 28 days' notice of any change in the amount of rent. A recent report by the National Economic and Social Council had recommended that security of occupancy should be increased. The Government was working to expand the housing stock and to achieve a sustainable and stable rental market for the benefit of all.

48. **Mr. Abdel-Moneim** said that he wished to make three points. First, the Covenant must take precedence over domestic law and must be applied even in times of economic crisis. Second, there must be more vigorous regulation of the banking sector. Third, a more global view must be taken of taxation, with exemptions and indirect taxation also taken into account.

49. **Ms. Shin** said that a thorough investigation should be carried out into the Magdalene laundries and proper reparation provided for women who had worked there. The National Women's Strategy 2007–2016 should also reach out to men and ensure their involvement in efforts to achieve work-life balance and tackle reproductive health issues. Gender-sensitive budgeting should be part of the Strategy.

50. **Mr. Uprimny Yepes**, noting that a constitutional amendment would be required to extend abortion provision in Ireland, said it was still not clear to him why there were no plans to hold a referendum on the matter. Furthermore, as the State party had established prior to ratification that it was in a position to implement the Covenant, he did not understand why the instrument could not be transposed into domestic law.

51. **Mr. Pillay** said that a further concern was the rise in the consistent poverty rate among all population groups, including children. Food poverty too had increased, and there was no national food and nutrition policy. Moreover, according to World Health Organization (WHO) figures, 89 per cent of men and 85 per cent of women living in Ireland would be overweight or obese by 2030.

52. **Mr. Sherlock** (Ireland) said that he was grateful to the Chairperson and the Committee members for their constructive engagement. He would ensure that the Committee received comprehensive written replies to the questions that remained outstanding. The Government was committed to the progressive realization of economic, social and cultural rights and was taking a more coordinated approach to policy in those areas. He wished to reassure the Committee that, notwithstanding the difficult decisions with which the Government had been faced during the economic crisis, it had always sought to ensure that there was a social floor below which no citizen would fall. It was determined to achieve higher living standards for all citizens.

53. **The Chairperson** said that the dialogue with the delegation had been extremely fruitful and expressed his gratitude in that regard.

The meeting rose at 1.05 p.m.