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OFFICE OF THE MINISTER FOR JUSTICE AND EQUALITY

Your ref: CommHR/SG/sf 115-2012

Mr. Nils Muiznieks
Commissioner for Human Rights
Council of Europe

Dear Commissioner,

It was my pleasure to meet with you during your recent trip to Ireland. I wish to refer to your letter of 9 November and to provide you with some further information in regard to certain issues.

I note your comments on Ireland's asylum system and to the revised Immigration, Residence and Protection Bill, which will provide for refugee status and subsidiary protection applications to be decided under a single procedure. I intend to publish this Bill as soon as possible in 2013, having regard to other urgent legislative commitments including those under the EU/IMF programme of financial support for Ireland.

Regarding the detention of young offenders, the capital investment package approved by the Government in April this year, for the construction and improvement of facilities in Oberstown child detention schools, will result in sufficient capacity to extend the child care model of detention to all young people under the age of 18 years by mid 2014. In addition, the feasibility of accommodating some of the 17 year old age group in the child detention schools before that date is being actively examined. In the meantime, educational facilities at St. Patricks are being improved.

In relation to the Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), my Department is examining the necessary legislative and administrative arrangements to allow signature and ratification of the Convention by Ireland. Article 52 of the Convention on emergency barring orders presents a particular difficulty in relation to property rights under the Irish constitution. Other legislative and administrative issues will also need to be addressed prior to ratification. However, the Government has made a commitment to consolidate and reform domestic violence legislation and proposals to this end are being developed. The issue of emergency barring orders will be considered in conjunction with this work, and with regard for international experience in resolving this issue.

I welcome your acknowledgement of my explicit commitment to strengthen and enhance the infrastructure to protect and promote human rights and equality in merging the Human Rights Commission and the Equality Authority to create a more effective and independent Irish Human Rights and Equality Commission. As I outlined when we met, my Department has been in dialogue with the Office of the United Nations High Commissioner for Human Rights (OHCHR) in relation to my draft legislative proposals. A group of officials, led by the Secretary General of

my Department, met with the OHCHR on 8 October in Geneva. The three most significant points to emerge from the meeting were:

- OHCHR considers that we have engaged in a good process in the development of the new Commission and has full confidence that the Irish Government is approaching the issue in the right way. The OHCHR hopes that it can continue to use our approach as a best practice model for other member states.
- In reply to questions about whether there were any matters in the Department's paper (responding to earlier OHCHR observations) that struck them as problematic in the context of the future reaccreditation process, or any remaining concerns in that regard, the OHCHR representatives said that there were none.
- The approach in the draft legislation of having two definitions of human rights (a wider definition to give the Commission a mandate to consider any human rights issue and to participate in debate at home and abroad about developing new standards and new international instruments; and a narrower definition focused on human rights as recognised in Irish law so as to give the Commission strong and effective legal and enforcement powers) is an approach that the OHCHR regards as a best practice model and will encourage other states to adopt.

In parallel to the drafting of the legislation, arrangements are being made to select members of the new Commission. This is being handled by an independent selection panel set up for that purpose. I can inform you that advertisements inviting applications were published on 11 November, with a deadline of 29 November for submission of applications. The successful applicants will be appointed to the two existing bodies, pending enactment of the necessary legislation to effect the merger. This will ensure that the two organisations can start to operate as a cohesive whole, with a transition programme being prepared and put in place and that the board(s) can commence preparing a Strategic Plan for the new body.

We will continue to engage in dialogue with the OHCHR on the drafting of the legislation progresses and I have asked my officials to follow up with your office on your welcome suggestion of a continuing dialogue with your office.

Finally, I am happy to confirm that the integration of the Equality Tribunal into the new Workplace Relations Commission will not impact on the independence of officers investigating individual complaints under equality legislation. This is an essential requirement of the quasi-judicial nature of the new Commission and will be protected in the legislation setting up the new structure.

Again I would like to thank you for your visit and letter. My Department and I look forward to engaging further with you into the future.

Yours sincerely,



Alan Shatter T.D.

Minister for Justice, Equality & Defence

29/11/12