Joint Oireachtas Committee on Justice, Home Affairs and Migration meeting on the General Scheme of the Children (Amendment) Bill 2024

Opening Statement

IPRT thanks the Committee for the opportunity to provide observations on the General Scheme of the Children (Amendment) Bill which focuses on and improves some critical elements of the youth justice system.

While IPRT welcomes this Bill's purpose and intent, there is currently a missed opportunity to align with our international human rights obligations and address repeated calls from the UN Committee on the Rights of the Child to raise the minimum age of criminal responsibility to 14.

Children and young people do not possess the same cognitive abilities or developmental capacity as adults. Research shows they are influenced by impulsivity, suggestibility and a lack of both future orientation and risk aversion. The State is obliged to protect vulnerable children, including those who have perpetrated serious harm. Criminalising a child as young as 10 is inappropriate and it is important that the legal framework adopts a child-rights and evidence-informed approach to children who offend. Therefore, we recommend amending Head 3 to explicitly raise the age of criminal responsibility to at least 14 years for all offences.

Under Head 9, we welcome the proposal to disallow custodial remand of a child where there is no place available in Oberstown Detention Campus, a situation which is increasingly common. The principle of detention as a last resort, as provided for in the Children's Act 2001, must be upheld. However, the disproportionately high rates of remand custody for children are concerning. The largely successful Bail Supervision Scheme – an intensive intervention that has been proven to reduce reoffending – currently only operates in Dublin, Limerick and Cork but is regularly used by Judges in those areas and should be extended nationwide. Head 9 should be amended to

provide that a child must not be remanded to detention where an appropriate alternative order is available to the Court, including a bail supervision order.

The proposed expansion of deferred sentence supervision orders (DSSO) under Head 19 is welcome to address the current deficit around suspended sentences for children, which would be inappropriate if applied in the same way as adults. Where a child complies with the DSSO in the year before a resumed hearing takes place, it means they may be diverted from detention entirely as the Court can suspend all or part of the sentence or impose a community sanction instead.

For serious offences, where detention is the only suitable option, a detention and supervision order provides for a period of probation supervision to assist young people to reintegrate into society upon release from detention. IPRT welcomes the proposed flexibility of dealing with individuals on a case-by-case basis but cautions against any unintended consequences resulting in a young person spending a disproportionate length of their sentence in detention with a smaller period in the community. IPRT recommends amending Head 21 to explicitly require that rehabilitation and reintegration are the primary considerations when calculating the length of the detention period.

Finally, IPRT contends that the children's rights principles currently underpinning these proposals should continue to be prioritised for young adults. Ageing-out of the youth justice system can be traumatic and have a detrimental effect on rehabilitation due to the 'cliff-edge' effect that occurs when someone turns 18 and loses access to age-appropriate interventions, entitlements and supports overnight. IPRT recommends extending the same youth justice sanctions, standards and principles to young people up to the age of 24 as happens in other jurisdictions.

Thank you for listening and my colleague Saoirse Brady and I will be happy to answer the Committee's questions.