DÁIL ÉIREANN

AN COMHCHOISTE UM DHLÍ AGUS CEART, GNÓTHAÍ BAILE AGUS IMIRCE

JOINT COMMITTEE ON JUSTICE, HOME AFFAIRS AND MIGRATION

Dé Máirt, 15 Iúil 2025

Tuesday, 15 July 2025

Tháinig an Comhchoiste le chéile ag 3 p.m.

The Joint Committee met at 3 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Tom Brabazon,	Robbie Gallagher,
Paula Butterly,	Garret Kelleher,
Catherine Callaghan,	Anne Rabbitte,
Gary Gannon,	Lynn Ruane.
Alan Kelly,	
Pádraig O'Sullivan.	

Teachta / Deputy Matt Carthy sa Chathaoir / in the Chair.

General Schemes of National Cyber Security Bill 2024, Criminal Justice (Violation of EU Restrictive Measures) Bill 2025 and Children (Amendment) Bill 2024: Department of Justice, Home Affairs and Migration

An Cathaoirleach: Tá fáilte romhaibh go léir. Apologies have been received from Deputy Ward. I remind members to turn off their mobile phones or switch them to flight mode.

The purpose of today's meeting is to have three briefings from the Department of Justice, Home Affairs and Migration in respect of pre-legislative scrutiny of the national cyber security Bill 2024, criminal justice (violation of EU restrictive measures) Bill 2025 and children (amendment) Bill 2024. To provide briefings on these general schemes we are joined by the following officials from the Department of Justice, Home Affairs and Migration: Mr. David McGill, principal officer, security and Northern Ireland; Ms Clare Heenan, assistant principal, security; Mr. Brendan Bruen, principal officer; Mr. Stephen Downey, assistant principal; Ms Marisa Gomez, principal officer, criminal legislation; and Ms Susanna Gillespie, higher executive officer. The officials are all very welcome.

I invite the witnesses to brief the committee, in the first instance, on the national cyber security Bill 2024, after which we will take questions or comments directly from members. Members' contributions will be restricted to approximately five minutes in the first round.

Before Mr. McGill begins, I will advise all witnesses in respect of parliamentary privilege. Witnesses and members are reminded of the long-standing parliamentary practice that they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable or otherwise engage in speech that might be regarded as damaging to the good name of the person or entity. Therefore, if their statements are potentially defamatory in relation to an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative they comply with any such direction. We will now move on to the general scheme of the national cyber security Bill 2024. I understand Mr. McGill and Ms Heenan are dealing with this topic. As Mr. McGill will lead on the briefing, I invite him to make his opening statement.

Mr. David McGill: My colleague Ms Heenan and I thank the Cathaoirleach and members of the committee for the opportunity to appear today to assist in the pre-legislative scrutiny of the general scheme of the national cyber security Bill 2024. This legislation represents a significant step in strengthening the State's cybersecurity and resilience. It will enhance cybersecurity risk management in Ireland, bringing with it significant improvements in our capacity to protect against and respond to major incidents. It also reflects the growing importance of cybersecurity as a matter of national interest, not only for the protection of our most critical national infrastructure but also for our economy, our democratic processes and the safety of our citizens.

The primary objective of the Bill is to transpose the second EU network and information security directive, known as the NIS2 directive. The NIS2 directive is a revision of the original NIS directive which is currently in force in the State and will remain in full effect, covering the most critical operators of essential services and digital service providers in the State, until the NIS2 directive is transposed and enacted.

In addition to transposing the NIS2 directive, the Government agreed that this Bill should be used to incorporate relevant provisions to establish the National Cyber Security Centre, NCSC, on a statutory basis and provide for related matters, including clarity around its mandate and

role in general regarding other actors in the cyber area.

I know the committee has been provided with a copy of the general scheme and an explanatory memorandum, so I do not intend to take up much of the committee's time going through the general scheme in detail. However, I will outline some of the high-level provisions within the scheme.

In transposing the NIS2 directive, Ireland has chosen to designate multiple national competent authorities for the regulation of essential and important entities across 18 sectors, including energy, transport, health, digital infrastructure and public administration. These bodies are existing regulators in these sectors and have, therefore, deep sectoral knowledge and experience, which will allow them to be best placed to implement the provisions of this directive in their sectors.

The NCSC, as well as being designated a national competent authority for the public administration sector, will also be designated as the lead national competent authority. This additional role is a recognition of its current experience in implementing the existing NIS directive and development of its cybersecurity expertise and capacity in recent years. As the lead national competent authority, the NCSC takes on the role of co-ordinating and providing support and guidance to the other national competent authorities as they take on their new functions under this Bill.

The general scheme provides for a suite of supervision and enforcement powers to enable the national competent authorities to fulfil their role effectively. These include the power to conduct security audits of entities, inspect premises, direct entities to comply with risk management measures and, where necessary, impose significant administrative sanctions on non-complaint entities. The general scheme provides a clear framework for risk management and incident reporting obligations and also designates the NCSC as Ireland's computer incident response team for the purposes of this directive.

There will be enhanced governance and oversight arrangements to ensure accountability and transparency in how cybersecurity is managed at the highest levels. Responsibility for cybersecurity will be placed on the boards and management teams of the regulated entities.

Finally, the general scheme provides for the governance of the NCSC, including establishing it as an executive office of this Department. It sets out roles for the NCSC, including national cybersecurity monitoring, resilience building, information sharing, both at national and international levels, and to act as the central body for dealing with national cyber incident response. It also allows the NCSC to take a number of different measures in specific cases. These include allowing it to take measures where the domain name system, DNS, system is being abused or compromised by a threat actor in order to perpetuate harm against systems in Ireland or elsewhere; measures to allow the NCSC to identify certain high-level risks and threats as they occur; and to detect and, in some cases, prevent cybersecurity incidents.

I look forward to an informative and constructive discussion. I am happy to address any queries members may have.

An Cathaoirleach: As advised, I suggest members try to limit their contributions to five minutes.

Senator Lynn Ruane: This is a big Bill. I will focus on one part of it that stood out. Mr. McGill may be able to tell me if I understand this right. Does the Bill create an offence? If so,

is it an administrative offence only or are there offences higher than that? If an entity does not adhere to what is set down by the competent authority or officer and does something that is not in line with that, an offence is committed. What is that offence?

Mr. David McGill: It does not create an offence. It is a regulatory breach rather than a criminal offence. There are administrative sanctions set out in the directive that we must apply as a State. They are two types of entities, one of which is an essential entity. Essential entities are entities that are much more critical to our infrastructure and society. They are important entities. They are much more highly regulated and subject to sanctions of up to 2.45% of their global annual turnover, or €10 million, whichever is greater. The management boards of those entities can be held personally liable for-----

Senator Lynn Ruane: A competent authority could apply to the High Court to restrict senior management from their duties.

Mr. David McGill: Yes, that is correct. It is part of the sanctions as well. In scenarios where an entity operates under a licence, such as an entity in the telecommunications sector, for example, the regulator can suspend its licence until it complies with the directions given to it.

Senator Lynn Ruane: To put this in context and to better understand, if we take what happened with the NTMA last week as an example, would this Bill create a different framework from that which currently exists in the area of phishing scams or is cybersecurity different from being scammed, in a sense? Are they part of the same suite of areas?

Mr. David McGill: To be honest with the Senator, I do not have the detail of what happened with the NTMA, so I cannot respond to the Senator on that case. The Bill affects the whole cybersecurity of an entity. That body would be regulated *per se* but I cannot comment on the Senator's question because I do not have the details.

Senator Lynn Ruane: That is grand. Will Mr. McGill provide an example of non-adherence?

Mr. David McGill: The reason we went for a sectoral approach, from a regulatory point of view, is that each of the regulators knows its sector and knows how mature its sector is in terms of systems. Some will be better than others. The risk management measures are set out as one of the articles or heads. What will happen is that an entity will be assessed for its compliance with those measures. The competent authorities can either send in their own staff or require that a third-party independent security assessor be brought in by the entity to assess for compliance. It could be something as simple as a requirement to have three fire walls. If an entity does not have three fire walls, it is not meeting that.

Those measures are not set in the legislation. Rather, they are set out as part of the risk management measures that will be implemented as part of the guidelines. Potentially, after a security audit has taken place, if the regulators are not happy with what is going out, they can set out measures to say that the entity needs to increase its cybersecurity measures and issue it with a notice to that effect. The entity will be given a certain amount of time to implement the measures. If it does not comply within that time, it then becomes an offence. A lot of discretion is afforded to the competent authority.

Senator Lynn Ruane: Is there a scale proportional to the size of the company or industry? With smaller organisations, there is obviously a cost associated with bringing cybersecurity levels up to the requisite standard. Is funding available for those smaller companies or what

way does that work?

Mr. David McGill: To answer the first part of that question, it absolutely depends on the size of the company. It also depends on the sector it is in. Essential entities are always medium or large scale, so smaller scale companies would not be disproportionately affected. There are some critical entities whose size does not matter, but generally it only applies to the larger ones. The rest of them would become smaller.

In respect of funding, grants are already available through the NCSC. It has a scheme in place. We have a new national cybersecurity strategy. We were looking at introducing more types of grant schemes in order to help support small and medium enterprises in particular to develop their cybersecurity infrastructure to raise the whole level of cybersecurity within the State to a more acceptable standard.

Senator Lynn Ruane: That is perfect. I thank Mr. McGill.

An Cathaoirleach: In the absence of any other members indicating, I will ask a couple of questions. I understand the committee in the previous Dáil had commenced pre-legislative scrutiny. Did the Department receive any feedback from that committee in respect of the deliberations it had that would have informed this Bill moving forward?

Mr. David McGill: The only feedback we received was a letter which contained a number of submissions that were made in writing. I believe we sent that on to this committee. We received nothing else.

An Cathaoirleach: An obvious concern might be in regard to the notion of multiple national competent agencies and the fear that the implementation of the framework will be as strong as the weakest link. Who is going to assume competency for the competent authorities? Will that be the NCSC? Who will have oversight?

Mr. David McGill: There is a combination of oversight arrangements. Primarily, it will be the Department because the Department must ensure the legislation is being properly implemented. There is also in existence what is called the national competent authority forum. These regulators are already meeting regularly to decide how they are going to implement this legislation. They have already decided how they are going to create the risk management measures they need to implement in each of their sectors.

The NCSC will be the lead competent authority just by virtue of the fact that it has the most experience. It is chairing this forum and will drive it in a direction that will standardise these measures throughout the different sectors. Within the Bill itself there are measures by which we can pass secondary legislation if needs be in order to set into legislation the risk management measures so that if it is not being applied in one sector, it can be applied across all other sectors.

An Cathaoirleach: Are all of the national competent authorities, NCAs, statutory bodies?

Mr. David McGill: Yes.

An Cathaoirleach: They are all Government agencies.

Mr. David McGill: Yes.

An Cathaoirleach: Some Government agencies work better than others as a general rule. Is it fair to say that some agencies with very little experience of having oversight of cybersecu-

rity issues will be given that responsibility?

Mr. David McGill: From this perspective of cybersecurity there are certain agencies that have not done this before. That is simply because this type of legislation is not on the books. These agencies are now taking on this role to do this and being led by the NCSC, which has done this kind of enforcement work.

An Cathaoirleach: To go back to a point Senator Ruane touched on, is it fair to say some competent agencies, as they will now be described, have very bad track records in terms of cybersecurity?

Mr. David McGill: That I do not know.

Ms Clare Heenan: I do not know either but I will add that this is about compliance and risk as well as everything else. That is why the sectoral model was deemed to be the most appropriate. In its role as the lead competent authority the NCSC will provide support and guidance. It is about taking a number of approaches to support those competent authorities and bring up their capacity on cybersecurity. They should all have been working in a sphere of compliance and risk management in advance of this.

An Cathaoirleach: When Ms Heenan says support and guidance, is there also an authority that comes with being the lead agency? Does it have the wherewithal to sanction competent authorities that are not doing their job effectively?

Mr. David McGill: The NCSC does not have that authority. That function rests with the Minister in terms of making sure the legislation is properly implemented.

An Cathaoirleach: I do not know if Mr. McGill is in a position to answer my final question. In terms of cybersecurity across different EU member states, there is a mixture of lead departments. Sometimes the department of defence is the primary authority while in other states it is the department of justice or national security. Have there been many interdepartmental discussions as to where best this authority would lie? Does Mr. McGill know why the Department of justice was ultimately selected?

Mr. David McGill: I am not aware. I know it is a matter of Government policy that it was moved as part of the programme for Government.

Senator Anne Rabbitte: In Mr. McGill's opening statement he listed a number of entities. Does he have a comprehensive list of the 18 entities?

Mr. David McGill: It is 18 sectors and we do have a comprehensive list. There are two annexes at the back of the general scheme which list the different sectors.

Senator Anne Rabbitte: Of the sectors that are listed, where does Mr. McGill see the highest risk?

Mr. David McGill: That is determined by the annexes. Annex I lists the sectors considered to be the most critical risk. The banking, digital infrastructure, drinking water, energy, financial market infrastructure, health, ICT service management, public administration relating to Government entities, space, transport and wastewater sectors are seen to be the most critical to society and therefore deemed the most important for regulation purposes.

An Cathaoirleach: I thank Mr. McGill and Ms Heenan. I suspect we will be in touch over

the coming period as the committee discusses its next approach to the pre-legislative scrutiny. I thank them for their time.

I suggested previously that we take the next two briefings together and we can take questions on them collectively if that is agreed, or we can take each one separately. We will take both briefings in turn. I will first ask for a briefing on the general scheme of the criminal justice (violation of EU restrictive measures) Bill 2025. We have Mr. Brendan Bruen and Mr. Stephen Downey to speak on that briefing.

Mr. Brendan Bruen: I am grateful to the Cathaoirleach and members of the committee for the invitation to be here today as the committee considers the general scheme of the Bill. It will give effect in Irish law to the EU directive on the violation of Union restrictive measures. I am conscious that the directive and the general scheme are quite detailed and at this stage I propose to address them only in quite general terms. I am of course happy to address individual aspects and questions members might wish to raise.

Restrictive measures, more commonly known as sanctions, are adopted under the EU's common foreign and security policy. They include measures targeting natural and legal persons such as asset freezes and travel bans and also encompass specific sector measures including trade prohibitions and providing financial or other services. While these are a particular currency as regards sanctions imposed as a result of Russia's aggressive war in Ukraine, the proposed Bill has broader applicability. There are over 50 such measures in force.

Restrictive measures are adopted at European level and have direct applicability. As such, the specific requirements and prohibitions they contain do not require further national action to have legal effect. Member states are, however, required to introduce national rules to provide for effective, proportionate and dissuasive penalties for breaches of sanctions and to provide for a range of administrative measures to support effective implementation.

Primary motivation for the directive was that member states have applied widely varying rules and penalties for breaches of sanctions. In some countries they are treated as criminal offences; in others they attract only administrative processes. This inconsistent approach to enforcement across member states has the potential to undermine the EU's collective efforts. To address this inconsistency, the directive places sanctions breaches firmly in a criminal justice context. It sets out various types of breaches of restrictive measures, requires that such breaches be criminal offences and sets the minimum levels which must be available as penalties for such offences. Provision is also made for appropriate investigative tools to be available, comparable to those provisions which may be available for serious organised crime offences. It provides for protections in relation to the reporting of breaches, statistical reporting and enhanced co-operation between relevant authorities in investigating these offences. Notably, provision is also made for the punitive confiscation of assets where certain offences are committed in relation to those assets by or on behalf of the relevant sanctioned person. For example, an attempt to circumvent sanctions in respect of a financial asset may be punished by the confiscation of that asset.

I emphasise the directive requires criminalisation only to the extent the conduct is in breach of a restrictive measure. It does not independently prohibit any conduct outside of what is already prohibited by those restrictive measures. However, it does apply prospectively. As new forms of conduct are prohibited by restrictive measures in the future they may be captured within the offences created pursuant to the directive in this Bill. In Ireland, restrictive measures are given effect to by statutory instruments adopted under the European Communities Act 1972.

All breaches are criminal offences and carry a maximum penalty of three years imprisonment. Other criminal offences of broader application may also apply to sanction breaches, most notably money laundering, which carries a maximum penalty of 14 years, and certain offences under the Criminal Justice (Theft and Fraud Offences) Act 2001, carrying penalties of up to ten years. As such, Ireland already adopts the key principle of the directive in applying a fully criminal framework to breaches of sanctions.

Restrictive measures touch on many aspects of the Irish economy and responsibility for their enforcement spans several Government Departments and public agencies, notably including the Department of Foreign Affairs and Trade, which has lead responsibility in relation to the negotiation of new measures, the Department of Finance and the Central Bank, the latter particularly in relation to compliance with asset freeze and financial services elements of the regime. Responsibility also rests with the Departments of justice and Enterprise, Tourism and Employment, An Garda Síochána and several other bodies. Co-ordination with respect of Ireland's implementation of restrictive measures is led by the cross-departmental international sanctions committee chaired by the Department of foreign affairs. This group brings together senior officials across government and law enforcement to ensure a coherent national approach is taken.

I will note certain aspects in relation to the approach in the general scheme. The directive adopts a minimum harmonisation approach. Therefore the question arises in transposition as to whether to strictly follow the minimum standard set out in the directive or to create broader offences that go further than these minimum standards. Following consultation, the proposed approach is twofold. A broader approach is taken in relation to the frozen asset offences, closely aligned with Ireland's anti-money laundering framework, and a narrower, minimum harmonisation approach is generally taken for the other offences. This broader approach on frozen asset offences, as may be seen in head 5 of the scheme, aligns with the money laundering offence under section 7 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010. This alignment is of particular importance as, given the nature of the conduct involved in a violation of a restrictive measure involving funds or economic resources, such conduct is likely to also constitute a money laundering offence or, at the very least, a reasonable suspicion of such. Under Irish law, a person is guilty of such an offence if they deal with an asset knowing, or being reckless as to whether, it represents the proceeds of crime. That is a section 7 offence. A similar approach is proposed in relation to frozen assets. For the other offences, given the variety of situations in which breaches might occur, we have opted for a narrower approach that adheres more closely to the minimum harmonisation requirements of the directive.

It is important to view the directive, and this Bill, in context. Criminal offences are only one part of the enforcement mechanism. Preventing circumvention requires a multifaceted approach, and one which is continually assessed and improved. The methods used to avoid sanctions, particularly in relation to hiding financial assets, evolve constantly and we must keep pace.

The comparison with the international approach to money laundering is particularly relevant here. Criminal offences are of course important but to meaningfully prevent money laundering, we have to address the entry and exit of illicit assets through the financial system and the broader economy. Accordingly, a detailed range of obligations is imposed on private sector actors to help achieve this under money laundering legislation. This includes the conduct of customer due diligence - the "know your customer" requirements - assessment of business risks in relation to individual business services and transactions, and the reporting of suspicious

transactions to the Garda financial intelligence unit and so on.

The emphasis we have placed on the alignment with the money laundering framework mirrors that now adopted on European level in the adoption of the sixth anti-money laundering package. This will place complying with restrictive measures on a par with preventing money laundering more generally. The business measures that I referred to in relation to AML will now also apply to business relationships which may touch on frozen assets.

The directive was subject to a one-year transposition period, with a deadline of May of this year. This was acknowledged as particularly challenging by all member states and, in fact, only seven member states have thus far claimed to have completed transposition. In Ireland, it is being progressed as quickly as possible and the scheme being considered today was brought to the Government immediately after the recent election. The drafting of the Bill is being progressed and publication is expected during the autumn session.

The transposition of the directive across the Union is an important component in strengthening the regime, and ensuring that these important foreign policy tools are consistently implemented will enhance their effectiveness. I look forward to discussing the Bill with the committee.

An Cathaoirleach: I thank Mr. Bruen. The next briefing is on the general scheme of the children (amendment) Bill 2024. To provide us with the briefing, I am very pleased to welcome Ms Marisa Gomez and Ms Susanna Gillespie. I understand Ms Gomez will make the opening statement.

Ms Marisa Gomez: I thank the Chair and the committee for their invitation to discuss the children (amendment) Bill 2024. This Bill is important legislation that will address a number of issues and gaps that have arisen in the two decades since enactment of the Children Act 2001.

The Children Act 2001 was passed as the most comprehensive reform of youth justice law in Ireland for over a century and governs youth justice in Ireland. The Act provides the principles to be abided by when dealing with children who are in conflict with the law and a framework for the sentencing of children. It is based on the principles of diversion and detention as a last resort. It contains numerous references to international children's rights principles. The Act has supported the development of progressive youth justice practice in Ireland, including restorative justice approaches.

The Bill we are discussing today provides for a number of amendments to the 2001 Act, with a focus on the area of the sentencing of children. The proposed amendments can be broadly categorised into four main objectives. The first is to provide for alternatives to suspended sentences for children by introducing a deferred sentence supervision order, DSSO. Since 2017, the courts have held the view that there is no power to suspend a detention sentence. The Supreme Court examined the issue again very recently and concluded that detention sentences, which take place in Oberstown at the moment, cannot be suspended. As an alternative, the Bill proposes to introduce a new order, the deferred sentence supervision order, which can be imposed if a judge deems that a sentence of detention is the appropriate penalty. The judge will then defer the sentencing hearing for up to a year. During this time, the child will be under the supervision of the Probation Service. If the child complies with the terms of their probation, the judge can discharge the child at the deferred hearing. If the child fails to engage with the Probation Service, the judge can make an order for detention or, if the child turns 18 in the interim, an order for imprisonment.

The second objective of the Bill is to ensure that a number of existing community sanctions under the Children Act 2001 can be enforced once the child turns 18 years old. The Act specifically references a "child" in the context of the community sanctions and a child is defined in the Act as a person under 18 years of age. Specifically, a probation order, a probation training or activities programme order, and a probation intensive supervision order will be amended to ensure they continue to be applicable once the child turns 18.

The third objective is to set the age of eligibility for procedural entitlements under the 2001 Act to the age a person was when the offence was committed, and not the age the person is at the time of the trial. These entitlements, which include anonymity, were introduced in the 2001 Act because evidence showed children do not have the level of ability to think ahead, understand consequences, and make choices about their behaviour or control their own impulses in the way that would be expected of adults and, therefore, they have less culpability in respect of criminal behaviour. Children also have greater chances of rehabilitation. Setting the age of eligibility for these procedural entitlements to the age a person was when the offence was committed will reduce the possibility of unequal treatment between young offenders, for instance in circumstances when delays in criminal trials take place for reasons not related to the young offender.

Finally, the fourth objective is to provide for miscellaneous matters that relate to the administration of youth justice. These include the repeal of orders no longer utilised by the courts and changes to the board of management of Oberstown.

The Department consulted with a variety of stakeholders in the development of these proposals. That included the then Department of Children, Equality, Disability, Integration and Youth, the Probation Service, the Irish Prison Service, An Garda Síochána, the Office of the Director of Public Prosecutions, the Courts Service, the Ombudsman for Children's Office and members of the Judiciary.

A briefing note further elaborating on the policy objectives and the main changes of the Bill has been provided. I look forward both to the discussion today and to considering any input arising from the committee's scrutiny.

An Cathaoirleach: I thank Ms Gomez. I propose that each member be given ten minutes to ask questions of either set of witnesses.

Deputy Gary Gannon: I have a number of questions on the children (amendment) Bill 2024. Will the officials clarify how the proposed deferred sentence supervision order will link with wider early intervention and youth diversion supports, particularly for children already known to Tusla, CAMHS or youth services?

Ms Marisa Gomez: Our understanding of the applicability of the order is that those services will be included. They will be consulted.

Deputy Gary Gannon: That is welcome. It would be good to see them on the stakeholder list. That will be an important part of our stakeholder engagement as we proceed.

Has consideration been given to integrating restorative justice or trauma-informed alternatives directly into the DSSO process, particularly in cases where underlying issues like poverty, addiction and neurodiversity drive offending?

Ms Marisa Gomez: It would be for the courts to consider what is the most suitable support that would need to be issued in respect of a youth offender. The type of issues the Deputy men-

tioned would normally be used and utilised by the courts and the probation officer in charge of the case. I think the answer is "Yes"..

Deputy Gary Gannon: In light of recent incidents in Oberstown and staff safety issues, solitary confinement practices and alleged breaches of children's rights, what safeguards are in place to ensure that any additional children held under these new detention powers are not exposed to harm?

Ms Marisa Gomez: The children (amendment) Bill, which we are discussing today, does not with the types of issues that the Deputy has mentioned concerning Oberstown. As he will probably know, the Department of Justice, Home Affairs and Migration is not responsible for the management of Oberstown so it would not be appropriate for me to comment on that.

Deputy Gary Gannon: I am not sure about that but I will move on. On transparency outcomes, will the Courts Service or Oberstown be required, under this new Bill, to report annually on how many children received DSSOs, had their sentences activated due to non-compliance or were transitioned into an adult prison post turning 18 years old?

Ms Marisa Gomez: I assume that is the case, yes.

Deputy Gary Gannon: While the Bill protects procedural rights based on the person's age at the time of the offence, can the Department confirm that children will not be remanded or sentenced to serving time in adult prisons simply because of delays in the system that push them past 18 years?

Ms Marisa Gomez: The Children Act 2001 contains a number of procedural entitlements. The Bill will set the eligibility age for those procedural entitlements at the age and time the offence was committed, and not the time the offender goes through the criminal proceedings or when they are charged with the crime.

Deputy Gary Gannon: What supports will be available during supervision orders? I would imagine the social supports that would be needed for a child going through the system might include housing, education, addiction, counselling and mental health. Will they be guaranteed to children under supervision orders, particularly those exiting Oberstown or facing difficult home environments?

Ms Marisa Gomez: When a court is deciding what the most appropriate order is for a youth offender, a risk assessment is taken into consideration before deciding which one is most appropriate.

Deputy Gary Gannon: Have community-based youth organisations, particularly those working in disadvantaged areas, been meaningfully consulted during the design of these sentencing reforms? If so, can we get a list of the external services that the Probation Service will co-ordinate with during supervision being provided?

Ms Marisa Gomez: We are happy to provide such a list.

Senator Lynn Ruane: I will start with Mr. Bruen. I know this is to give effect to an EU directive, and Mr. Bruen spoke about this Bill bringing consistency in a sense. However, to look at what is currently on the restrictive measures list and why they are on it, I went through the map of EU sanctions that is available online. Even under this Bill, the EU, and in some cases the EU and the UN, have arms embargoes, property embargoes and asset freezes on a suite of

countries but they do not have any sanctions on Israel. Will this EU measure bring this consistency when we already do not have consistency in how we apply the current structures to create sanctions? Ireland has recognised the State of Palestine, but will this further tie our hands in the sense of not being able to bring any sort of sanctions on a much more bilateral level?

Mr. Brendan Bruen: Taking the last point first, this Bill does not say anything about what the substance of sanctions are or on whom sanctions are placed. It does not restrict Ireland's ability to impose sanctions or not to impose sanctions, or to address that substantive question. What the Bill does is it addresses breaches. The CFSP instruments are decided at EU 27 level and are adopted as European regulations. They are directly applicable and they do not require further implementation, from an Irish perspective. However, we are obliged to put in place a criminal justice framework around how to investigate breaches, how to identify assets that are frozen and how to ensure that reporting requirements are abided by and if there is a breach of sanctions, how those are punished and the possibility of confiscation in relation to them. The Bill itself is one step removed from creating a determination. The general scheme of the Bill shows that the offences are dealt with under head 4 to head 12, inclusive. Each of them follows a similar formula, whereby the conduct is in breach of the restrictive measure, the person knows that it is in breach of the restrictive measure and it falls within a particular category of conduct. Therefore, that attracts a certain kind of penalty. That ensures that there is an Irish offence at a particular level that meets this.

From an Irish perspective, we already adopt an all-criminal-offence approach to sanctions' breaches, albeit at a lower level of penalties, under the 1972 Act. That change to something having to be a criminal offence in all cases may have greater relevance elsewhere. It does have relevance for us in terms of the investigative measures that are available for gardaí, ensuring that everything is an arrestable offence, that there are powers of detention and there is the power to do certain things without a warrant. There are also powers in relation to the restraint of assets. The difficulty with asset freezes in general is that the assets themselves are not tainted. In a situation of money laundering, the money is tainted from the very beginning, because it is the proceeds of crime. In an asset freeze situation, the asset is not necessarily tainted. Rather, it is the person who owns the asset who is tainted and it can then be decided that this person cannot do anything with the assets that are linked to them. That requires a somewhat different approach to the powers within it. For example, under section 17 of the money laundering Act, a Garda member at the rank of superintendent can direct a bank account freeze for a period of seven days. That sort of thing is not necessarily available in an asset freeze situation at the moment. It is trying to tie up all of the criminal justice aspects, but it does not-----

Senator Lynn Ruane: Beyond the criminal offences and money laundering, when we look at other areas such as trade, imports and exports - the Bill also covers a lot of other things - what mechanisms are in place currently or will be put in place under this Bill to provide oversight in terms of mapping right now? China, for example, has been on the weapons list since 1989. How does Ireland ensure that nobody in Ireland is exporting weapons that are on the sanctions list to China? How does that work?

Mr. Brendan Bruen: The underlying legal piece is that the CFSP instrument is adopted. That is a European regulation and a prohibition on that activity taking place. The second layer then is that we introduce a domestic offence by way of a statutory instrument. This says that in the case of breaches of that sanction and a trade offence being committed, the person or persons will be subject to potentially a three-year prison term and a fine.

Senator Lynn Ruane: Will there be resources to oversee that level of investigation?

Mr. Brendan Bruen: I will not pretend to be able to speak about each individual example. Say, for example, within a trade situation, there are potential licensing arrangements and everything that goes with those, and that is then a challenge for each sectoral area as to whether or not something is licensed or authorised. If a breach is detected, that is ultimately a matter for An Garda Síochána to investigate.

Senator Lynn Ruane: Does this intersect in any way with the occupied territories Bill? Is there a conversation between the two Departments to ensure that this legislation, if it becomes law, will in no way undermine the occupied territories Bill?

Mr. Brendan Bruen: As it stands, they are two completely separate paths. If at some point something falls under CFSP under the European level, it falls under this Bill and if it does not, then it does not. One will not prevent or enable the other.

Senator Lynn Ruane: My next questions are for Ms Gomez. I know it is not covered within this Bill and I broadly support the intent of the Bill, but I have always struggled with 18 being the age at which adult culpability is formed. I am especially thinking of young people who may have any sort of additional needs, such as intellectual disabilities. We create exceptions at the age of 12 regarding some crimes, such as murder and sexual offences. We create an exception at that end of the scale for the type of crime. Is there ever any conversation about creating exceptions on the age of 18? Youth work legislation recognises that young people from ages 18 to 24 are not fully adults in terms of their brain development. Are there conversations on exceptions at the other end of the scale?

Ms Marisa Gomez: One of the changes that the Bill is going to bring means that some of the community sanctions will continue to be applicable when the child turns 18, so that they would continue to be under the supervision of a probation officer, to recognise this for the duration. At the moment, when a child offender turns 18, the order expires and is not applicable any more. For three of the sanctions we have at the moment, with this change they will continue to be applicable when a person turns 18. The opposite would be that there are a number of sanctions that will continue to expire that have a residential component. It means the child will be going into residential centres and once they turn 18 and become an adult, it may not be appropriate for them to be going there. This change will bring some flexibility to the situation.

Senator Lynn Ruane: Regarding the expungement of convictions, it is sometimes an uncomfortable conversation for people to have when we think about cases of say ten-, 11- or 12-year olds who have potentially taken a life. Other convictions will come off a person's record if they do not reoffend on release. As Ms Gomez said, children have greater chances of rehabilitation. However, in certain categories of crimes, even if that was a person's only crime, it is actually never addressed from the perspective of the conviction. Even though we say that rehabilitation may happen, it will still stay on someone's record for the rest of his or her life. That person will never be able to go into certain careers, or there is certain travel he or she will never be able to do because it stays within that category. Yet, we are recognising the very unique situation of a child's development and his or her ability to rehabilitate and not reoffend. Was that a conversation at all?

Ms Marisa Gomez: To answer the Senator's question, this children's Bill does not address the spent convictions issue. As the Senator knows, policy is always kept under review and legislation is always kept under review. We will take a note of that.

An Cathaoirleach: I call Deputy Brabazon.

Deputy Tom Brabazon: With regard to the children (amendment) Bill, I note that there is mention of restorative justice. That is a really important thing. I am thinking of a particular ongoing problem in an area in my constituency where youths - children - are plaguing residents in a particular apartment block. They are selling drugs, intimidating people, charging up their e-bikes and e-scooters, urinating and defecating in the common areas and generally making an absolute nuisance of themselves. They are smashing the windows and doors and creating absolute havoc for the residents in the block. These youths do not live there. They do not have anything to do with it, but they create this difficulty all the time. There are not currently sufficient resources for An Garda Síochána. I would love to see a day come when those offenders are made to face up to the people and what they have put those people through. It is absolutely scandalous that they know they are under 18 years of age and that the system does not allow them to be effectively prosecuted. I disagree with Senator Ruane in respect of expunging criminal records. There has to be consequences for behaviour that really badly affects people's lives. I could tell people stories here and give details, but I do not want to disclose any confidences. However, people's lives have been made an utter misery. Sometimes, we go too far with our generosity. These youths are behaving like adults. They are mimicking the behaviour they see of more senior drug dealers and so on, and it is absolutely reprehensible what they do. Restorative justice has to be a really important element of this where they see first hand or hear first hand the effects of what they are doing in the daily lives of people they are affecting. It is really important. I hope that would be reflected very strongly in the legislation.

Ms Marisa Gomez: First of all, I hear what the Deputy is saying. When he mentions restorative justice, he is really taking about the diversion programme for youth offenders.

Deputy Tom Brabazon: What I am talking about is when they are apprehended and their guilt has been proven, they are brought to the people they have affected and made understand what they have done so they can learn from it. There has to be some kind of consequence for this behaviour and how they have affected other people's lives.

Ms Marisa Gomez: I will just say that not all youth offenders are suitable for the diversion. While we were having a look at the statistics here, we saw that in 2024 over 3,000 youth offenders were brought in front of the courts in Ireland. With the amendments in this Bill, we are also trying to provide some more flexibility for the courts to provide the right sentence depending on the characteristics of the case, including the gravity of the crime.

Deputy Tom Brabazon: Restorative justice to me has a much wider meaning than just diversion. If a person breaks somebody's window, the person who has broken the window should replace it for a start, and then should understand that the victim has had to sleep overnight in the cold. That is just to put it at its simplest level. That in my opinion has to happen for restorative justice to work properly.

Ms Marisa Gomez: Again, I can only state that it is for the court to decide what is the most appropriate sentence for youth offences, tailored to each of the backgrounds.

Deputy Tom Brabazon: I understand fully that it is a matter for the courts to sentence, but sentencing where the perpetrator of an offence is made to eyeball the victim and be told how it has affected him or her could be something that could be built into sentencing policy.

Ms Marisa Gomez: It is already taking place. When the decision is made whether to divert a youth offender into a diversion programme, these are the types of issues that are taken into account. Again, the amendments of the Bill also provide for additional sentencing possibilities

for the courts so they are able to tailor the sentence to the individualities of the case. I am not sure I can explain the matter any further than that.

Deputy Tom Brabazon: Surely diversion means that it is the local superintendent or the juvenile liaison officer, JLO, who is diverting that potential offender away from offences. It is not at the court stage, which is what I am talking about.

Ms Marisa Gomez: It is not a court making a decision on the diversion, but for those where it is decided that diversion is not appropriate, that is when the court would issue the order depending on the individualities of the case.

Deputy Tom Brabazon: However, the two elements - diversion and restorative justice - could work in the same process.

Ms Marisa Gomez: Absolutely.

Ms Susanna Gillespie: I will just add that the judge at the minute can issue a community sanction that could involve restorative justice. This can happen at the minute already, or even a probation order whereby the person can go and say sorry and that kind of thing. That can and does happen at the minute. Therefore, the restorative justice element at court and diversion are already there.

Deputy Tom Brabazon: Yes, but it can be there is a much broader sense. When I use the phrase "restorative justice", it is a much broader concept than what is already there.

Ms Susanna Gillespie: Yes, that is understood. I thank the Deputy.

An Cathaoirleach: Is the Deputy happy enough? Does anybody else want to come in? I have a couple of points in terms of the criminal justice (violation of EU restrictive measures) Bill. I am not sure if our guests would be in a position to comment. Another member mentioned that Mr. Bruen ended on the phrase regarding the consistency of application of sanctions. The difficulty when we are dealing with EU restrictive measures is that they are anything but consistent. It looks very interesting, and I encourage people to have a look at the map of EU sanctioned states, not necessarily for the countries that are on it - there are a lot of them, in fairness - but related to conflicts and human rights abuses all over the globe. In fact, some go back decades, as was alluded to, and include restrictions on China dating back to the events in Tiananmen Square in 1989. However, the truth is that we are watching an equivalent of Tiananmen Square happen every single day in Gaza and there are no restrictions or sanctions at all. We saw the EU Foreign Affairs Council today dancing around the head of a pin, and it looks like once again there will be no sanctions applied. I do not know whether our guests can comment, but I think most people would accept that the concept and the principle of EU sanctions is undermined by the fact that they are not applied consistently.

Mr. Brendan Bruen: I fully understand the point. From the perspective of this Bill, we want to ensure that where sanctions are agreed among the 27 and they are determined, they should apply properly. It is certainly not the end point in terms of what the substance of those sanctions is and the consistency, or why they are applied or how they are determined. For us, what we can do is what is in front of us, which is ensure that when they are put in place, they work, and there is an effective mechanism to ensure that we are abiding by them and that we are not providing an opportunity or soft touch or a jurisdiction that people choose to put assets in, and that the gardaí and the competent authorities here have the powers they need to ensure that they observe them. That is the beginning and the end of where this Bill is. I appreciate it does

not speak to why those sanctions are what they are. We can only do the part that is in front of us.

An Cathaoirleach: I accept that. The notion of EU sanctions would be strengthened if they were based on decisions that were developed as a result of breaches of international law, as opposed to political decisions, which is often the case, but I accept Mr. Bruen's points in respect of the Bill.

Perhaps Ms Gomez or Ms Gillespie could elaborate a little because I am not sure members of the public would fully understand the anomaly that has arisen in respect of suspended sentences for juveniles, which is one of the matters this Bill addresses. Will they elaborate a little on that and the solution, as they see it, in the Bill?

Ms Marisa Gomez: When it comes to suspended sentences, which as the committee knows are regularly applied when it comes to adults, the Department engages in consultations with relevant stakeholders, including the Law Reform Commission. The consensus is that suspended sentences are not appropriate. They do not work with children because it does not give them the opportunity to deal with the consequences of their offence in the same way as an adult. The consensus or the understanding is they will take it as if they are getting out of jail, basically, or out of the sanction with a free ticket. The consensus among the stakeholders and the Department is that suspended sentences are not appropriate for children. That is why we are proposing introducing a new order called the first sentence supervision order. This will provide that when a judge decides detention is an appropriate penalty for a child offender, the sentencing will be deferred for up to a year and during that time the child will be under the supervision of the probation officer. There will be requirements and conditions that will need to be complied with by the child. If the child complies with those requirements, when the time comes for the sentencing the court may decide to discharge or replace the order of detention with a different order and if the child does not comply with the requirements of the order that is when detention can kick in, or if the child has turned 18 they can go into prison and an imprisonment order can be issued.

An Cathaoirleach: Is there a concern that in that instance a child could have a more severe sentence than an adult would for the same crime given a child would be subject to the deferred sentence supervision order whereas an adult would have a suspended sentence and would ultimately be able to get on with their lives once they do not commit another crime? The child has a set of obligations put on them.

Ms Marisa Gomez: The precise rationale for introducing the deferred sentence supervision order is suspended sentences not being appropriate for children. Let us say someone who is 16 snatches a mobile phone and is issued with a sentence of one year, the detention could apply for up to a year and cannot be suspended, whereas an adult in the same situation who is 24 or 25-----

An Cathaoirleach: Ms Gomez said it cannot be suspended.

Ms Marisa Gomez: As it is, detention and suspension of sentences is not considered appropriate.

Ms Susanna Gillespie: It could be a situation where the child will get a harsher penalty than an adult because they would not be subject to the deferred sentence supervision order, but research has shown the child needs to get a chance to deal with their offending behaviour. If they are given a suspended sentence, they will go off and do the crime again. They do not recognise their action leads to a punishment and if the punishment is suspended they continue

their criminal behaviour.

An Cathaoirleach: Okay, I think we will have a bit of work to do in pre-legislative scrutiny on that.

There were two particularly important Supreme Court judgments this year. Obviously they happened after the heads of Bill had been drawn up. I am referring to DPP *v*. PB and DPP *v.* CC, which relate to statutory protection of anonymity afforded to children, the appropriateness of imposing life sentences on children and the sentencing courts' jurisdiction for a review. Is there going to be consideration of those judgments before the final Bill is published?

Ms Susanna Gillespie: Yes, the judgment impacts on one specific area which is not in the general scheme at the moment. In DPP *v.* CC the Supreme Court made a remark on the parole regime for children, especially concerning the fact the 12-year eligibility threshold which is applicable now for adults is the same for children. The court stated it does not think that is appropriate. We are still considering what the eligibility threshold will be. That is under consideration and when that happens it will likely go into the general scheme.

An Cathaoirleach: I thank the officials.

Does anybody else want to make any final remarks? In the absence of any, I thank our guests. That concludes our engagement on the matter. Again, we thank all officials for their time. They are free to withdraw. Is it agreed the committee will go into private session to deal with some housekeeping matters? It is.

The joint committee went into private session at 4.06 p.m. and adjourned at 4.45 p.m., *sine die.*