**Letter from the Special Rapporteur on Extreme Poverty and Human Rights and the Special Rapporteur on Adequate Housing**

**Submission of Ireland**

**July 2021**

* 1. *Does your city, province/canton, federal state or national State have any laws or regulations in place that prohibit begging, eating, sleeping, or performing personal hygienic activities in all or certain public places? Could you kindly share as well the text of relevant legal norms?*

While begging in certain circumstances is criminalised in Ireland, there are no provisions prohibiting eating or sleeping in public places. However, Irish legislation does contain a number of targeted and proportionate measures, which relate to certain aspects linked to begging. The relevant legislation in this area is the Criminal Justice (Public Order) Act 2011[[1]](#footnote-1).

According to Section 2, an offence is committed if begging is done in an intimidating or threatening manner or obstructs the passage of persons or vehicles. A person who is guilty of this offence and is liable, on summary conviction, to a class E fine or imprisonment for a term not exceeding one month or both.

Section 3 outlines that an offence is committed if a person contravenes a direction by a member of An Garda Síochána (AGS)[[2]](#footnote-2) to desist from begging and leave a place in certain circumstances, such as:

* Where the member of AGS believes the person is acting in a manner that is an offence under section 2 or giving rise to apprehension for the safety of persons or property or for the maintenance of the public peace under Section 3(1);
* Where the person is begging at or near the entrance to a dwelling, automated teller machine, vending machine or night safe under Section 3(2);
* Where the person is begging near a business premises and members of the public are likely to be deterred from entering the premises under Section 3(3); and
* Where the person is begging in a private place under Section 3(4).

Furthermore, Section 5 states that directing or organising begging are both offences. A person guilty of an offence under Section 5 of the Act is liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both, or on conviction on indictment to a fine not exceeding €200,000 or imprisonment for a term not exceeding 5 years or both.

Under Section 6, it is also an offence to live off the proceeds of begging by another person. A person who is guilty of such an offence and is liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.

Finally, Section 7 outlines causing or procuring a child to beg in a public place or conduct

house visits for the purpose of begging as an offence as per Section 247 of the Children Act

2001.[[3]](#footnote-3)

* 1. *Could you kindly provide your views as to whether or not regulations relating to begging applicable in your jurisdiction are compatible with the above mentioned UN human rights standards and the judgment of the European Court of Human Rights in the case of Lăcătuş v. Switzerland?*

In the case of Lăcătuş v. Switzerland, the Court was critical of a blanket ban on begging as the Judges regarded this to be a radical measure requiring strong justification. It was held that the imposition of fines or a custodial sentence was not proportionate to the aim of combatting organised crime or to the aim of protecting the rights of passers-by, residents, or shopkeepers. Moreover, the UN Guiding Principles on Extreme Poverty and Human Rights recommended that States should review sanction procedures that require the payment of disproportionate fines.

It is notable that there is no complete blanket ban on begging in Ireland, as the legislation does not make it an offence to beg in a public place. The exception to this being that such begging must be non-threatening and non-intimidating and the person begging is not part of a group organised for the purposes of begging and is not begging near ATM machines, entrances to business premises, or any other place listed in Section 3 of the Criminal Justice (Public Order) 2011 Act.

The UN Guiding Principles on Extreme Poverty and Human Rights states that the penalty of imprisonment should be abolished for offences relating to begging. Although relatively rarely implemented, there are a range of offences in Ireland that can result in imprisonment. This is of course by and large limited in practice to more serious offences and thus it is unlikely that a penalty of imprisonment would be imposed on an individual guilty of an offence relating to begging, save for cases involving organised crime groups.

On this basis, Ireland’s legislation regarding begging can be said to be broadly compatible with the UN human rights standards and the judgment of the European Court of Human Rights in the case of Lăcătuş v. Switzerland. In addition, exceptions to the ability to beg can be said to be proportionate to the rights of others to go about their business free of harassment and intimidation.

* 1. *Has your local, regional or national Government adopted any measures to decriminalise begging, eating, sleeping or performing personal hygienic activities in public places? Is your Government planning to undertake such measures in light of the judgement of the European Court on Human Rights? If so, could you kindly explain what is envisaged, and which obstacles you may be facing?*

In the past, measures have been taken by the Government and the Courts to decriminalise begging and sleeping in public places. The Vagrancy Acts of 1824[[4]](#footnote-4) and 1847[[5]](#footnote-5) essentially criminalised homelessness and begging in Ireland. Section 4 of the 1824 Act made it an offence to sleep rough, however this was repealed by the Housing Act 1988[[6]](#footnote-6).

Section 3 of the 1847 Act prohibited begging in any public place under any circumstances. This law was ruled to be unconstitutional by the High Court in the case of Dillon v Director of Public Prosecutions[[7]](#footnote-7) and thus no longer remains in force.

*4) Which measures are in place in your municipality, province/canton/federal State to support people living in poverty from having to resort to begging, sleeping, washing, defecating or performing other hygienic activities in public places because they do not have access to employment, social assistance, adequate housing, public showers and toilets?*

In Ireland, the role of the Government in terms of addressing homelessness is to ensure that a framework of policy, legislation and funding is provided to housing authorities. This is to guarantee that housing authorities are in a position to address homelessness at the local level. The relevant legislative provisions are found in Section 2 and 10 of the Housing Act 1988[[8]](#footnote-8).

There is legislation in place, which contains provisions for assessing whether a household is homeless. The basis for making this assessment is set out in Section 2 of the Housing Act 1988. It is a local authority function to consider whether a household is regarded as homeless. Section 10 of the 1988 Act also sets out the basis for the provision of accommodation and related services by the local authorities to households assessed as homeless.

Decisions on the range of homeless accommodation and the operation and funding of facilities are then a matter for individual authorities.

The Irish Government affords significant priority to addressing homelessness and provides significant funding annually in terms of this priority. In 2021, a provision of €218 million has been made for the funding of homeless services related to accommodation and related services. Separate funding is provided for health and welfare needs of individuals and households experiencing homelessness.

The role of housing supply has been identified as a crucial factor in addressing homelessness and commitment has been given in the Programme for Government[[9]](#footnote-9) agreed in 2020 for a further 50,000 social homes to be built.

**Rough Sleepers**

Rough sleepers are among the most vulnerable individuals in society. The number of rough sleepers in Ireland has fallen over the last number of years. The most recent information indicates that in Dublin there were 125 rough sleepers during a formal count, which took place across a full week in April 2021. This was a reduction from the previous count in November 2020 when 139 individuals sleeping rough were identified. The local authorities have indicated that there is bed available for everyone who needs one in Dublin and that its ‘Outreach Teams’ provide a vital service in bringing rough sleepers in to services. Just 16 of the individuals recorded during the November 2020 count were also present in the April 2021 count, which is a positive indication that individuals are being taken off the streets and into accommodation.

**Income Support Payments**

All individuals in Ireland can apply for income support payments including Supplementary Welfare Allowance[[10]](#footnote-10), where the Habitual Residency Condition (HRC) is satisfied. Arrangements are in place to enable those who do not satisfy HRC to access exceptional and urgent needs payments through the Community Welfare Service[[11]](#footnote-11).

**Housing First**

Housing First enables people who may have been homeless and who have high levels of complex needs, be they physical health, mental health or addiction needs to obtain permanent secure accommodation with the provision of intensive supports to help them maintain their tenancies. This has been a collaborative effort between the national and local housing and health authorities supported by NGOs. By the end of March 2021, the total number of individuals in a Housing First tenancy was 539.

**Daytime Services**

According to Section 10 of the 1988 Housing Act, the role of the Irish Government is to contribute Exchequer funding to housing authorities in respect of costs incurred in the provision of accommodation and related services for homeless people. Local authorities may make provision in the funding provided to support day services and decision in relation to these are made at local level by Joint Homelessness Consultative Forums and Statutory Management Groups. These groups make decisions in relation to the running of Homeless Services at local level. Funding is provided from national and local government to support these services.

Day services are critical to many individuals who are experiencing homelessness. They are often the first point of contact for many people arriving on the streets and their services can include housing information and advice, housing assessment and eligibility as well as access to food, laundry and showering or washing facilities. Importantly, day services also provide social contact, along with one-to-one support and care planning, and access to health and support services.

**EU Fund for European Aid to the Most Deprived (FEAD) programme**

Charities and NGOs working with homeless people have access to food products through the EU Fund for European Aid to the Most Deprived (FEAD) programme. The Irish Government is the Managing Authority for the FEAD Programme in Ireland.

**Current Statistics on homelessness in Ireland**

The most recent published statistics show that there were 7,991 individuals accessing homeless emergency accommodation in May 2021, a decrease of 91 individuals on the April 2021 figures and a decrease of 885 (10%) on the 8,876 total recorded one year previously. This represents the lowest number of individuals accessing emergency accommodation in Ireland since June 2017. Important progress has been made in this time in reducing the numbers of homeless persons in Ireland.

1. [Criminal Justice (Public Order) Act 2011 (irishstatutebook.ie)](http://www.irishstatutebook.ie/eli/2011/act/5/enacted/en/html) [↑](#footnote-ref-1)
2. An Garda Síochána is the official name of the Irish police force. [↑](#footnote-ref-2)
3. [Children Act, 2001, Section 247 (irishstatutebook.ie)](http://www.irishstatutebook.ie/eli/2001/act/24/section/247/enacted/en/html) [↑](#footnote-ref-3)
4. [Vagrancy Act, 1824 (irishstatutebook.ie)](http://www.irishstatutebook.ie/eli/1824/act/83/enacted/en/print.html#:~:text=%5B1%5D%20%5B21st%20June%201824,%5BPreamble.%5D&text=Persons%20refusing%20to%20maintain%20themselves,one%20month%20with%20hard%20labour.) [↑](#footnote-ref-4)
5. [Vagrancy (Ireland) Act, 1847 (irishstatutebook.ie)](http://www.irishstatutebook.ie/eli/1847/act/84/enacted/en/print.html) [↑](#footnote-ref-5)
6. [Housing Act, 1988 (irishstatutebook.ie)](http://www.irishstatutebook.ie/eli/1988/act/28/enacted/en/html) [↑](#footnote-ref-6)
7. [Dillon v Director of Public Prosecutions](https://www.courts.ie/viewer/pdf/190ef4ec-48ca-47c3-abdd-a63ee331c4c1/2007_IEHC_480_1.pdf/pdf#view=fitH) [↑](#footnote-ref-7)
8. <http://www.irishstatutebook.ie/eli/1988/act/28/enacted/en/html> [↑](#footnote-ref-8)
9. [gov.ie - Programme for Government: Our Shared Future (www.gov.ie)](https://www.gov.ie/en/publication/7e05d-programme-for-government-our-shared-future/) [↑](#footnote-ref-9)
10. [gov.ie - Basic Supplementary Welfare Allowance (www.gov.ie)](https://www.gov.ie/en/service/36e514-supplementary-welfare-allowance/) [↑](#footnote-ref-10)
11. [Community Welfare Services - HSE.ie](https://www.hse.ie/eng/services/list/4/olderpeople/carersrelatives/community-welfare-services-.html) [↑](#footnote-ref-11)