

MISSION PERMANENTE DE L'IRLANDE
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A GENÈVE



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United Nations High Commissioner
For Human Rights
OHCHR
1211 Geneva 10

11 July, 2007

The Permanent Mission of Ireland presents its compliments to the United Nations High Commissioner for Human Rights and has the honour to refer to Council decision 2/104 of 27 November 2006, entitled "Human Rights Access to Water", requesting information from Ireland on the issues raised.

Attached please find Ireland's submission in response to this request. Ireland apologises for the tardiness of its response.

The Permanent Mission of Ireland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Michéal Tierney
Deputy Permanent Representative

OHCHR REGISTRY

12 JUL. 2007

Recipients : ..N., M.....
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Ireland's response to the UN High Commissioner's request for information subject to Council decision 2/104 of 27 November 2006, entitled "Human Rights and Access to Water."

Query A:

Ireland believes that the "Guide to Discussion for Participants" usefully summarises the key human rights instruments which inform the debate on the right to water and sanitation.

Access to safe water and basic sanitation are prerequisites to achievement of most, if not all, of the Millennium Development Goals. The scale of the deficit demands urgent action. Although much of the current debate focuses on the right to water, we believe that sanitation ideally needs to be given equal, if not greater priority. Sanitation has received much less attention, with twice as many people deprived of access; and has at least an equal impact on the achievement of other rights including health, gender equality and education.

Finally, we recognise that international agreement on a human right to water and sanitation is not an automatic solution to the problem. However, we do believe that progressive realisation can be accelerated where a human rights approach is used to empower and mobilise poor people to lobby national and international governments to give greater priority to water and sanitation.

Query B:

Water supplies in Ireland are generally provided by local authorities (public supplies) or by privately operated member-owned co-operatives (the group scheme sector). Standards to ensure access to safe and wholesome drinking water are set and enforced under the European Communities (Drinking Water) Regulations 2007, which have also established the requisite monitoring and supervisory arrangements to facilitate enforcement. Additional Regulations are currently being drafted to increase the penalty provisions for related offences to ensure that penalties are sufficiently dissuasive to provide an adequate deterrent.

A significant overhaul of primary water services legislation has also been completed, with the recent enactment of the Water Services Act 2007. The Act sets down a comprehensive modern legislative code governing functions, standards, obligations and practice in relation to the strategic planning, management, and delivery of water supply and waste water collection and treatment services. To this end it both consolidates and modernises the legislative code governing water services. The Act focuses on management of water "in the pipe", as distinct from broader water resources issues such as river water quality, etc.

Related measures to protect sources of drinking water are provided for under the Local Government (Water Pollution) Acts 1977 and 1990, which prohibit the discharge or disposal of any polluting matter to waters. Specific discharges to water, for example of phosphorous or nitrates, are also controlled under related Regulations. The use of sewage

sludge in agriculture is similarly regulated, and regulations are currently being drafted to introduce a licensing regime to control the discharge of effluent from municipal sewage treatment facilities.

Individual septic tanks in single dwellings are subject to general water pollution controls, and enforcement under the Planning and Development Acts. The Water Services Act 2007 has also introduced a specific duty of care on premises owners to maintain them so as to avoid risk to human health or the environment. A revised Manual on Treatment Systems for single Houses has been prepared by the Environmental Protection Agency, and will be published shortly, and incorporated into national building regulations in due course.

The broader EU context for these water source protection measures is the EU Water Framework Directive, which places obligations on EU Member States to maintain high status of water where it exists, prevent any deterioration in the existing status of waters and achieve at least "good status" in relation to all waters by 2015.

Query C:

We have no observations to offer.

Query D:

The National Development Plan 2007 - 2013 provides for sustained investment in improving and expanding water services infrastructure with planned investment of €4.7 billion - an increase of 27% on expenditure of €3.7 billion under the previous NDP. The priority over the period will be to ensure that the timing and scale of infrastructure facilitates economic, housing or other development and that environmental sustainability objectives are achieved.

Query E:

The Environmental Protection Agency Report on Drinking Water Quality for 2005 (published earlier this year) indicated that the overall quality of drinking water in Ireland is generally very high with an overall compliance rate of 96.7%. Rapid progress is being made to eliminate any remaining substandard water supplies. Significant new water supply schemes have been provided at many locations. The increase in drinking water treatment capacity since 2000 is equivalent to the needs of a population of 768,000. Since 1997, additional drinking water treatment capacity equivalent to the needs of a population of over 1.2 million has been provided.

Query F:

Rainwater Harvesting Project: The National Rural Water Monitoring Committee, in association with Dublin Institute of Technology, are currently undertaking a pilot rainwater harvesting and re-use project. The objective of the project is to determine the role/benefit of rainwater harvesting as a demand managing tool, quantify the amount of harvestable rainwater at a farmyard and domestic premises, and, determine the cost/benefit and "pay-back" period. The project has two elements:

1. Measuring rainwater run-off volume and assessing suitability for re-use (having regard to hygiene requirements etc) in a farmyard setting. A farm site in County Meath has been selected in consultation with Teagasc, the national farm advisory body.
2. The installation of rainwater storage, together with a pumped water supply to a separate attic header tank which would in turn supply toilet cisterns and outside taps, in 12 houses at a new Carlow County Council housing development at Tullow, County Carlow. Monitoring of the schemes will continue through 2007, following which an evaluation will be prepared.

Query G:

We have no observations to offer.

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- ¹ For a comprehensive review, see Centre on Housing Rights and Evictions, *Legal resources for the right to water: international and national standards*, Geneva, 2004
- ² Convention on the Rights of the Child, article 24; Convention on the Elimination of Discrimination against Women, article 14(2); Convention on the Rights of Persons with Disabilities, article 28; ILO Convention No. 161 on Occupational Health Services, article 5
- ³ African Charter on the Rights and Welfare of the Child, article 14; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, article 15
- ⁴ UN Standard Minimum Rules for the Treatment of Prisoners, para 15, 20; UN Rules for the Protection of Juveniles Deprived of their Liberty, para 34, 37; UN Principles for Old Persons, para 1; UN Guiding Principles on Internal Displacement, Principle 18; ILO Recommendation on Workers' Housing, para 7-8
- ⁵ UNDP, *Human Development Report 2006: Beyond Scarcity: Power, poverty and the global water crisis*, New-York, 2006, p. 3
- ⁶ U.N. Doc. CCPR/C/BIH/CO/1, Concluding observations of the Human Rights Committee: Bosnia and Herzegovina, 2006, para 20; U.N. Doc. CCOP/CO/80/SUR, Concluding observations of the Human Rights Committee: Suriname, 2004, para 21
- ⁷ U.N. Doc. CCPR/C/HND/CO/1, Concluding observations of the Human Rights Committee: Honduras, 2006, para 15
- ⁸ See Geneva Convention (III) relative to the Treatment of Prisoners of War (1949), articles 20, 26, 29, 46; Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (1949), articles 89, 127; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (1977), article 54; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (1977), article 14; ICRC, *Water in armed conflict*, ICRC Publications, November 1994
- ⁹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (1977), article 54; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (1977), article 14
- ¹⁰ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (1977), article 69, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (1977), article 18
- ¹¹ UN Convention on the Law of the Non-Navigational Uses of International Watercourses, 1997, article 10.2, available at: <http://www.un.org/law/ilc/texts/nnavvfr.htm>; Report of the Sixth Committee convening as the Working Group of the Whole, U.N. Doc. A/51/869 of 11 April 1997, paragraph 8, available at <http://un.org/law/waters.htm>; the convention is not yet into force. However, it is considered to codify international customary law related to the non-navigational use of watercourses
- ¹² Protocol on Water and Health to the 1992 Convention on the Protection and Use of Watersources and International Lakes, articles 1, 42(a)(b), 6.1(a)(b)
- ¹³ Mar del Plata Declaration, United Water Conference, 1997, Preamble; Agenda 21, UN Conference on Environment and Development, 1992, Chapter 18.47; Programme of Action of the International Conference on Population and Development, Cairo, 1994; Habitat Agenda, UN Habitat II Conference, Istanbul, 1996, para 11; Recommendation (2001) 14 of the Committee of Ministers to member States on the European Charter on Water Resource, available at: http://cm.coe.int/stat/E/Public/2001/adopted_texts/recommendations/2001r14.htm; U.N. Doc. E/CN.4/RES/2004/17, Commission on Human Rights, *Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights*, 2004, preamble, para 4,9; U.N. Doc. E/CN.4/RES/2005/15, Commission on Human Rights, *Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights*, 2005, preamble, para 4, 9; U.N. Doc. E/CN.4/RES/2004/27, Commission on Human Rights, *The right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, 2004, preamble, para 12; U.N. Doc. E/CN.4/RES/2005/24, *The right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, 2005, preamble, para 17; U.N. Doc. A/RES/54/175, General Assembly, *The right to development*, para 12(a)
- ¹⁴ See Ministerial Declaration of the Fourth World Water Forum, Mexico, 22 March 2006; Ministerial Declaration of the Third World Water Forum, Kyoto, 23 March 2004; Ministerial declaration of the Hague on Water Security in the 21st Century, The Hague, 22 March 2000; Final Declaration, International Conference on Water and Sustainable Development, Paris, 21 March 1998

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- ¹⁵ U.N. Doc. E/C.12/2002/11, UN Committee on Economic, Social and Cultural Rights, General Comment No. 15, The right to water, 2002
- ¹⁶ U.N. Doc. E/CN.4/Sub.2/2005/25, Sub-Commission for the Promotion and Protection of Human Rights, *Realization of the right to drinking water and sanitation, report of the Special Rapporteur, El Hadj Guissé*, July 2005
- ¹⁷ *Supra* note 15, para 1, 3, 4
- ¹⁸ *Ibid.*, para 2; 12(a)
- ¹⁹ *Ibid.*, para 12(b)
- ²⁰ *Ibid.*
- ²¹ *Ibid.*, para 21, 44
- ²² *Ibid.*, para 29
- ²³ *Ibid.*, para 12(c)(i), 56
- ²⁴ *Ibid.*, para 11, 12(c)(i)
- ²⁵ *Ibid.*, para 12, 13, 14,
- ²⁶ *Ibid.*, 12-16, 27, 44, 56
- ²⁷ *Ibid.*, para 21
- ²⁸ *Ibid.*, para 23
- ²⁹ *Ibid.*, para 23
- ³⁰ *Ibid.*, para 23, 24, 44; See also U.N. Doc. E/1991/23, UN Committee on Economic, Social and Cultural Rights General Comment No. 3, The nature of States parties' obligations, 1990, para 8
- ³¹ *Ibid.*, para 25
- ³² *Ibid.*, para 17, 19
- ³³ *Ibid.*, para 55; *Supra* note 15, para 9.1
- ³⁴ *Supra* note 15, para 12, 48; *Supra* note 15, para 8.1, 8.3
- ³⁵ *Supra* note 5, p. v
- ³⁶ *Supra* note 5, pp. 3-4
- ³⁷ *Supra* note 5, pp. 77-78
- ³⁸ *Supra* note 5, p. 60
- ³⁹ *Supra* note 5, p. 60
- ⁴⁰ Mar del Plata Declaration, United Water Conference, 1997, Preamble; Agenda 21, UN Conference on Environment and Development, 1992, Chapter 18.47; Programme of Action of the International Conference on Population and development, Cairo, 1994; The Vancouver Declaration on Human Settlements, 1976, para 8; Habitat Agenda, UN Habitat II Conference, Istanbul, 1996, para 11
- ⁴¹ *Supra* note 15, para 29
- ⁴² *Supra* note 16, para 1.2
- ⁴³ *Supra* note 16, para 2
- ⁴⁴ *Supra* note 16, para 2
- ⁴⁵ *Supra* note 16, para 1.3
- ⁴⁶ *Supra* note 16, para 2.3 (a), 3
- ⁴⁷ *Supra* note 16, para 1.3 (d), 2.3(e), 3, 6
- ⁴⁸ *Supra* note 16, para 8.2
- ⁴⁹ *Supra* note 16, para 60; *Supra* note 15, para 10.4
- ⁵⁰ *Supra* note 16, para 60
- ⁵¹ *Supra* note 16, para 24, 44
- ⁵² *Supra* note 15, para 44, *Supra* note 16, para 2.3(e)
- ⁵³ *Supra* note 15, para 51; *Supra* note 16, para 2.2
- ⁵⁴ Rome Statute of the International Criminal Court, 17 July 1998, article 8(XXV)
- ⁵⁵ *Supra* note 10
- ⁵⁶ U.N. Doc. CRC/C/GC/7/Rev.1, UN Committee on the Rights of the Child, General Comment No. 7, *Implementing Child Rights in Early Childhood*, 2006, para 27
- ⁵⁷ Voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security, para 8.11, available at: <http://www.fao.org/righttofood/>
- ⁵⁸ International Covenant on Civil and Political Rights, article 25(c); International Convention on the Elimination of All Forms of Racial Discrimination, article 5(e) (iv); Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, article 11.1; African Charter on Human and People's Rights, article 13(3)
- ⁵⁹ See for instance: U.N. Doc. CERD/C/ZAF/CO/3/15, Concluding observations of the Committee on the Elimination of Racial Discrimination: South Africa, 2006, para 18; U.N. Doc. CERD/C/64/CO/5, Concluding observations of the Committee on the Elimination of Racial Discrimination: Lithuania,

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- 2006, para 22; U.N. Doc. CERD/C/64/CO/5, Concluding observations of the Committee on the Elimination of Racial Discrimination: Nepal, 2004, para 12; U.N. Doc. CERD/C/LTU/CO/3, Concluding observations of the Committee on the Elimination of Racial Discrimination: Albania, 2003, para 21; U.N. Doc. CERD/C/304/ADD.110, Concluding observations of the Committee on the Elimination of Racial Discrimination: Slovakia, 2001, para 14; U.N. Doc. CERD/C/64/CO/5, Concluding observations of the Committee on the Elimination of Racial Discrimination: Rwanda, 2000, para 12; U.N. Doc. CCPR/C/BIH/CO/1, Concluding observations of the Human Rights Committee: Bosnia and Herzegovina, 2006, para 20
- ⁶⁰ UN Human Rights Committee, General Comment No. 6, The Right to Life, 1982, para 5
- ⁶¹ Corte Interamericana de Derechos Humanos, *Caso Villagrán Morales y Otros (Caso de los "Niños de la Calle")*, Sentencia del 19 de noviembre de 1999 (Ser. C) No. 63, párr. 144
- ⁶² U.N. Doc. E/CN.4/Sub.2/2004/20, Sub-Commission for the Promotion and Protection of Human Rights, *Final Report of the Special Rapporteur, Mr. El Hadji Guissé, Relationship between the enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water supply and sanitation*, 56th session, 2004, p. 29; Cahill Amanda, *The Human Right to Water – A Right of Unique Status: The Legal Status and Normative Content of the Right to Water*, The International Journal of Human Rights, Vol. 9, No. 3, September 2005, p. 397
- ⁶³ For instance, the Supreme Court in India indicated that the right to access to drinking water is fundamental to life and there is a duty on the State under the right to life to provide clean drinking water to its citizens: 2000 SOL Case No. 673; See also arrêt No. 36/98 of 1 April 1998 of the Belgian Court of Arbitration
- ⁶⁴ African Commission on Human and Peoples' Rights, *Free Legal Assistance Group and Others v. Zaire*, Comm. No. 25/89, 47/90, 56/91, 100/93, (1995), para 47
- ⁶⁵ U.N. Doc. E/C.12/2000/4, UN Committee on Economic, Social and Cultural Rights, General Comment No. 14, The right to the highest attainable standard of health, 2000, para 12(b), 15, 34, 36
- ⁶⁶ *Ibid.*
- ⁶⁷ *Ibid.*, para 43
- ⁶⁸ U.N. Doc. E/CN.4/2005/51/Add.3, Commission on Human Rights, *Report submitted by the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health Addendum: Mission to Peru* para 10, 15, 19, 54, 62, 63; U.N. Doc. E/CN.4/2005/51/Add.4, Commission on Human Rights, *Report submitted by the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health Addendum: Mission to Romania*, para 73
- ⁶⁹ U.N. Doc. E/CN.4/RBB/2001/25, Commission on Human Rights, *The right to food*, para 9
- ⁷⁰ U.N. Doc. A/56/210, General Assembly, *Preliminary report of the Special Rapporteur of the Commission on Human Rights on the right to food, Jean Ziegler*, para 58-71; U.N. Doc. E/CN.4/2003/54, Commission on Human Rights, *Report Submitted by the Special Rapporteur on the Right to food, Jean Ziegler, in accordance with the Commission on Human Rights Resolution 2002/25*, January 2003, para 36-51
- ⁷¹ UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 25, Temporary special measures, 2004, para 14; U.N. Doc. A/60/38, Concluding Observations of the Committee on the Elimination of Discrimination against Women: Israel, 2005, para 259bis; U.N. Doc. CEDAW/C/MDV/CO/3, Concluding Observations of the Committee on the Elimination of Discrimination against Women: the Maldives, 2006, para 32; U.N. Doc. A/57/38(SUPP), Concluding Observations of the Committee on the Elimination of Discrimination against Women: Denmark, 2001, para 344bis; U.N. Doc. A/59/38(SUPP), Concluding Observations of the Committee on the Elimination of Discrimination against Women: Spain, 2004, para 339bis;
- ⁷² *Supra* note 5; UNICEF, *Sanitation for All*, New-York, January 2000
- ⁷³ *Supra* note 74
- ⁷⁴ UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 25, Temporary special measures, 2004, para 14
- ⁷⁵ *Ibid.*
- ⁷⁶ Caren Grown, Goeta Rao Gupta and Aslihan Kes, *Taking action: achieving gender equality and empowering women*, UN Millennium Project, Taskforce on Education and Gender Equality, 2005, p. 29
- ⁷⁷ U.N. Doc. E/C.12/1999/10, UN Committee on Economic, Social and Cultural Rights, General Comment No. 13, The right to education, 1999, para 43
- ⁷⁸ *Ibid.*; U.N. Doc. E/1992/23, UN Committee on Economic, Social and Cultural Rights General Comment No. 4, The right to adequate housing, para 8; See also U.N. Doc. E/CN.4/2002/59, Commission on Human Rights, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of*

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living, Mr. Miloon Kothari, March 2002, para 49-65; U.N. Doc. E/CN.4/2003/5, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Mr. Miloon Kothari, March 2003, para 39-46; U.N. Doc. E/CN.4/2006/41/Add.2, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Mr. Miloon Kothari, Mission to the Islamic Republic of Iran, March 2006, para 105

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INFORMATION NOTE

Subject: Council Decision 2/104 – Human Rights and Access to Water

The High Commissioner for Human Rights has the honour to refer to Council decision 2/104 of 27 November 2006, entitled "Human Rights and Access to Water".

On 26 February 2007, the High Commissioner forwarded a note verbale to Member States requesting information concerning:

- a) Views on international human rights obligations to be taken into account in relation to equitable access to safe drinking water and sanitation.
- b) National legislation or draft legislation related to equitable access to safe drinking water and sanitation (constitution, specific law, regulation, etc.), including with regard to private sector provision of related services.
- c) Examples of judicial decisions related to access to safe drinking water and sanitation.
- d) National plan of actions, development programmes, public policies or emergency responses related to access to safe drinking water and sanitation.
- e) The impact of these national laws, judicial decisions, plan of actions, development programmes, public policies and other measures in promoting or restricting equitable access to safe drinking water and sanitation.
- f) Examples of approaches considered to represent "best practice" related to access to safe drinking water and sanitation.
- g) Any other existing initiatives and standards relating to equitable access to safe drinking water and sanitation, and the scope and legal status of these initiatives.

The High Commissioner has the pleasure to extend the deadline for submissions and consequently would be grateful if any response could be forwarded to the Office of the High Commissioner for Human Rights, United Nations Office at Geneva, CH 1211 Geneva 10, no later than 31 May 2007.

24 April 2007

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