**Working Group on discrimination against women in law and in practice**

**Questionnaire on good practices**

In accordance with its mandate, the UN Working Group on the issue of discrimination against women in law and practice has developed this questionnaire to gather information on “good practices” in eliminating discrimination and empowering women for its next thematic report. Given the centrality of the law to the Working Group’s mandate, the report will focus on the processes by which laws that support women’s equality and enjoyment of human rights come into being and are implemented in ways that support women’s enjoyment of their human rights and fundamental freedoms.

The questionnaire intends to solicit information on how a specific law aimed at addressing discrimination against women and promoting women’s substantive equality has come into being, was effectively implemented (I), and what impacts the law has had for women on the ground (II).

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) clearly establishes State obligation to respect, protect and fulfill women’s human rights, ensuring the de facto enjoyment of those rights by women. CEDAW’s framework is founded on the principle of substantive equality, which requires States to take active measures to not only eliminate laws and practices that directly discriminate against women, but to create an environment in which women’s rights can be fulfilled. Good practices in the promotion of women’s human rights thus require a holistic approach that addresses both the causes and consequences of discrimination, and aim at social transformation.

Recognizing the aspiration of the Working Group to better understand the processes and elements which contribute to build “good practices” in legislation and its implementation the Working Group requests that you provide detailed information on at least **one law** adopted in a State that has been successfully implemented in that it has had a notably substantial impact on eliminating discrimination against women in the specific area related to that law and has enhanced women’s enjoyment of their human rights in your national context, such that you consider it a “good practice.” Processes of substantive change often take place over a period of many years, so the law need not be new: this survey should focus on a law whose impact has been substantiated and the impacts of which are still being seen.

The Working Group wishes to thank all stakeholders for responding to this questionnaire **by 12 September 2016.**

**Questionnaire**

**For the following sections, please provide information about a law that has been selected as an exemplary case study of a “good practice” in eliminating discrimination and empowering women in your national context.**

**I. Identification of a law that has eliminated or substantially reduced discrimination and supported women’s empowerment.**

*Background Information on the Law*

1. Name/Title of the Legislation:

The Employment Equality Act 1998.

2. Date the law passed and came into force:

The Employment Equality Act 1998 commenced on enactment on 18 June 1998.

3. Was it a new law or an amendment of an existing law?

New ( ) Amendment ( X )

 If it was an amendment of an existing law, please providing name/title of existing law and any pertinent information here:

The 1998 Act substantially repealed the Anti-Discrimination (Pay) Act 1974 and the Employment Equality Act 1977.

4. Is the legislation focused specifically on discrimination against women/gender equality, or is it part of a larger piece of legislation (i.e. Labour law with provisions around gender)? Please explain.

The Employment Equality Act 1998 prohibits discrimination in the field of employment and occupation on any of the nine protected grounds (gender, civil status, family status, sexual orientation, religious belief or lack of belief, age, disability, race including nationality, and membership of the Traveller community) and related conduct. A similar prohibition, applicable to the supply of and access to goods and services, was introduced in the Equal Status Act 2000.

5. Please provide a summary of the content of the law, its preamble or explanatory note, policy measures, dissemination and implementation regulations, and provisions for access to justice, as well a link to where all these can be found online.

The stated purpose of the Employment Equality Act 1998 (in its long title) was to make further provision for the promotion of equality between employed persons; to make further provision with respect to discrimination in, and in connection with, employment, vocational training and membership of certain bodies; to make further provision in connection with Council Directive No. 75/117/EEC on the approximation of the laws of the member states relating to the application of the principle of equal pay for men and women and Council Directive No. 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions; to make further provision with respect to harassment in employment and in the workplace; to change the name and constitution of the Employment Equality Agency and provide for the administration by that body of various matters pertaining to this Act; to establish procedures for the investigation and remedying of various matters arising under this Act; to repeal the Anti-Discrimination (Pay) Act, 1974, and the Employment Equality Act, 1977 and to provide for related matters.

A copy of the Act as enacted, with all associated regulations, is available on the Irish Statute Book online, at the following link:

<http://www.irishstatutebook.ie/eli/1998/act/21/enacted/en/index.html>

An administrative summary of the Employment Equality Act 1998, updated to 7 March 2016, has been published by the Law Reform Commission and is available online at [www.lawreform.ie/\_fileupload/RevisedActs/WithAnnotations/EN\_ACT\_1998\_0021.PDF](http://www.lawreform.ie/_fileupload/RevisedActs/WithAnnotations/EN_ACT_1998_0021.PDF)

An explanatory summary of this legislation, as currently amended, is provided in the following publication from the Irish Human Rights and Equality Commission:

<http://www.ihrec.ie/publications/list/your-employment-equality-rights-explained/>

<http://www.ihrec.ie/publications/list/ihrec-employment-equality-rights-explained/>

 6. When was the first draft of this law introduced, and when was it adopted (please specify dates of first draft and adoption?

The first draft of this law, the Employment Equality Bill 1996, was debated in Parliament from October 1996 to April 1997. Having passed all Stages in both Houses, the Bill was referred to the Supreme Court by the President under Article 26 of the 1937 Constitution and on 15 May 1997 was held to be unconstitutional.

The Employment Equality Bill 1997 (No. 58 of 1997) was then introduced on 27 November 1997 and passed by both Houses of the Oireachtas (Parliament) on 11 June 1998, before being signed into law by the President on 18 June 1998.

A record of the progress of the Bill through Parliament is available online on the website of the Houses of Parliament at the link below.

http://www.oireachtas.ie/viewdoc.asp?DocID=5129&&CatID=59&StartDate=01 January 1997&OrderAscending=0

*The Law’s Compliance with CEDAW*

7. In your view, does the law in question place a positive duty on the State to achieve substantive equality for women?

Yes ( ) No ( X )

 If yes, please explain:

Section 39 of the Act provided that the functions of the newly established Equality Authority included working towards the elimination of discrimination in relation to employment and promoting equality of opportunity in relation to the matters to which the Act applied.

This provision was subsequently repealed by the Irish Human Rights and Equality Commission Act 2014, which provided the statutory basis for the merger of the Equality Authority and the Irish Human Rights Commission into a new Irish Human Rights and Equality Commission with enhanced powers (section 10 of that Act). That Act also placed a positive obligation on public bodies in the performance of their functions to have regard to the need to eliminate discrimination, promote equality of opportunity and treatment and generally protect the human rights of its staff and customers (s.42). Please see response also to question II.11.

8. Does the law contain a definition of discrimination that is in accord with Article 1 of CEDAW?

Yes ( X ) No ( )

 If yes, please direct us to the section of the pertinent document. If not, please indicate if that definition is enshrined already in the constitution or charter of rights.

A definition of direct discrimination is provided in Section 6 of the Act, while Part III of the Act (sections 19-23) provides for an entitlement to equal pay, a definition of indirect discrimination, and prohibition of harassment on the discriminatory grounds, sexual harassment and victimisation. Amendments since 1998 to these provisions are set out in the administrative summary referenced at question II.5 above.

9. Does the law’s definition of discrimination include and define both direct and indirect discrimination?

Yes ( X ) No ( )

 If yes, please explain:
Please see response to question I.8.

10. How has the Constitution supported the process of adoption and implementation of the law? Does the Constitution have an equality and non-discrimination provision?

A large number of rights are specifically provided for in the Constitution. These include equality before the law (Art. 40.1).

11. Does the law contain provisions that address discrimination against women from an intersectional perspective, taking into account a diversity of women’s social identities, statuses and experiences?

 Yes ( X ) No ( )

 If yes, please explain which social identities, statuses and/or intersectional factors are explicitly noted in the law:

The Act facilitates complaints of discrimination to be pursued on any combination of the nine discriminatory grounds, harassment, sexual harassment and victimisation. In practice, up to one quarter of complaints referred annually under the Act cite multiple grounds.

12. Whom of the following are bound by the law?

 The State Yes ( X ) No ( )

Public Authorities/Bodies Yes ( X ) No ( )

Civil society organisations Yes ( X ) No ( )

Private companies Yes ( X ) No ( )

Individuals Yes ( X ) No ( )

**II. How the law came into being and was implemented**

1. What was the impetus for the development of this law (i.e. social movement activism, political platform, a Supreme Court ruling, an egregious case of discrimination, constitutional reform…)?

An Equal Opportunities Policy and Guidelines for the Civil Service was adopted by Government in 1986. A Code of Practice on Measures to Protect the Dignity of Women and Men at Work was produced by the Department of Equality and Law Reform in 1994.

Employment equality legislation was one element of a proposed comprehensive suite of human rights and equality legislation developed in the mid-1990s. It also included the Maternity Protection Act 1994, the Adoptive Leave Act 1995, the Parental Leave Act XXX, the Equal Status Act 2000 and the Irish Human Rights Commission Act 1999.

The Employment Equality Bill 1996 was debated in Parliament from October 1996 to April 1997 and passed all Stages in both Houses. The Bill was referred to the Supreme Court on 3 March 1997 by the President under Article 26 of the 1937 Constitution and on 15 May 1997 the Supreme Court held that three provisions of the Bill were repugnant to the Constitution. Other than changes made to address these issues, the Employment Equality Bill 1997 presented to Parliament in November 1997 was largely based on the previous Bill.

The Bill was required to give effect to EU law in respect to discrimination on the gender ground and, having regard to European Court of Justice case law, to provide means of redress without limit on the amount of compensation in gender equality cases.

2. Were there any conditions in the political context that made it possible for this law to be developed and adopted at the time that it was (i.e. a particular political party in power, a conflict/post-conflict situation, a recent ratification of an HR instrument, etc.)?

Yes ( ) No ( )

If yes, please explain:

Ireland ratified the UN Convention on the Elimination of All Forms of Discrimination against Women in 1985. Ireland participated in the UN’s Fourth World Conference on Women in 1995, at which the Beijing Declaration and Platform for Action was adopted.

In 1991 the Government included a package of equality measures in its programme for government which included a commitment to establish a Second Commission on the Status of Women, to make recommendations on legislative and other means to advance equality for women. The Governments which took office in 1993 and in 1994 also included equality measures in their programmes for government and undertook to introduce amended employment equality legislation.

The Irish presidency of the European Union in 1996 played in key role in finalising the Article 13 provisions of the Amsterdam Treaty, which provided the basis for the further development of EU legislation on equality.

3. What actors were consulted and how were they consulted in the law’s development and formulation? Check all that apply, and, where possible, provide names of involved individuals, agencies, organizations, etc.

Legal Experts/scholars (please specify) ( )

Government Ministries ( X ) All Ministries

NHRI ( ) n/a

NGOs/CSOs ( X ) Second Commission for the Status of Women.

Other social groups (specify) ( X ) the social partners.

The development of the Bill involved extensive and ongoing consultation from 1991 to 1998 with the social partners and civil society groups representative of all the discriminatory grounds.

4. Was there opposition to the law?

Yes ( ) No ( )

If yes, please explain from whom and why, and how it was addressed:

6. Were there other laws that needed to be reformed in order to enact this law?

Yes ( X ) No ( )

If yes, please list and explain:

Section 5 of the Employment Equality Act 1998 lists the consequential amendment and repeal of existing legislation. Please see response to question I.5 for link to the Act.

7. Were any international human rights treaties or mechanisms referenced in the law’s creation?

Yes ( X ) No ( )

If yes, please list and explain:

The legislation gave effect in Irish law to provisions of European Union gender equality and anti-discrimination law. Regard was also had to the State’s obligations under the Beijing Declaration and Platform for Action 1995, and UN CEDAW.

8. Did any international/regional/national human rights mechanism issue recommendations to the State in regard to amendment or formulation of this law, or regarding effective implementation? If yes, was this recommendation formulated prior, during or after the adoption of the law?

Yes ( X ) No ( )

If yes, please list and explain:

Ireland's initial report under the Convention was considered by the CEDAW Committee in February 1989 but included no recommendations regarding this legislation. The combined second and third reports were submitted in August 1997 and considered in June 1999, with the Committee's recommendations including taking into account developments in the concepts of equal pay for work of comparable value.

9. What measures to support implementation were built into the law or developed immediately after (and as a result of) its passing? This could include such measures as budgetary and resource allocation, monitoring mechanisms, data collection, impact measurement mechanisms, independent monitoring, etc. Please list and explain, providing any relevant documents.

The Act also established the necessary institutional structures to ensure effective implementation of the legislation, in the shape of the Equality Authority, which had an information and advocacy role and the Equality Tribunal, a quasi-judicial forum to mediate, investigate and hear complaints of unlawful discrimination under equality legislation. Provision for the expenses of these bodies was made in the annual budget of the Department of Justice and Equality.

10. How was the law made accessible to the public? Did it include formal training on the new law for all stakeholders involved? Were specific groups of women targeted for these activities? Who was involved in these initiatives, and where did the funding come from? Please answer in detail.

The functions assigned to the Equality Authority under this legislation (section 39) included providing information to the public on the working of this Act. The Equality Authority developed a Communications Strategy to raise public awareness of equality issues and provide information on equality legislation. Its Public Information Centre came into operation in July 2001, and included telephone, email and text phone services, with information publications on the relevant legislation. Early initiatives undertaken included targeted advertising campaigns, and development of a community advocacy programme. Surveys were commissioned during 2001 to assess the impact and reach of these campaigns. Women's organisations were among those groups targeted by the Equality Authority. Detailed information on the Equality Authority’s activities in this regard were published in its annual reports.

In addition, directive information on the legislation and supporting services has been provided through the Citizens Information Service, both online and through its network of Citizen Information Offices.

11. Have there been any barriers to the law’s full and successful implementation?

Yes ( X ) No ( )

If yes, please explain the barriers and how they were/are being addressed:

The changed socio-economic climate was identified by a scoping exercise, commissioned in 2010 by the then Minister of State for Equality, Integration and Human Rights, as presenting challenges to the three core equality and human rights bodies (the Equality Authority, the Equality Tribunal, and the Irish Human Rights Commission), with the bodies experiencing significant resourcing cutbacks and a greater requirement on all publicly-funded organisations to demonstrate cost effectiveness and impact, while at the same time likely to face a greater demand from people for their services.

In 2011 the Government decided in principle to merge the Irish Human Rights Commission and the Equality Authority into a new Human Rights and Equality Commission, with enhanced powers. Following consultations, the Irish Human Rights and Equality Commission Act 2014 was enacted to give effect to this merger.

12. What kinds of roles are being carried out by civil society/women’s organizations in supporting the implementation and impact of the law? How are these activities being financed?

The Irish Exchequer continues to support the core funding of the National Women’s Council of Ireland, which is the leading national women’s membership organisation in Ireland grouping together approximately 150 NGOs. While it is independent of Government on policy issues, answerable only to its own elected executive committee and members, its Government funding stems from a recommendation to the then Government made in 1992 that the NWCI provide women’s organisations at local regional and national level with a forum in which women’s views, opinions, experience and perspectives can be shared and developed; through its work at national level, the NWCI bring such views and perspectives to bear on policy and decision-making, while at the same time encourage and support the work of its affiliates and other women's groups to work locally and regionally; and develop leadership and developmental programmes for women's groups around the country. In addition to its developmental role, the NWCI is recognised as an informed and constructive contributor to the implementation and review of policy initiatives and its leaders interact frequently with senior politicians and policy makers.

The Equality Authority (now the Irish Human Rights and Equality Commission) has also funded, both through Exchequer funding and EC/EU funding programmes, positive action measures undertaken by or in partnership with civil society organisations.

**III. The impacts that the law has had for women on the ground**

1. Did the adoption of the law result in the creation of any policies?

Yes ( X ) No ( )

If yes, please list and explain:

The legislation encouraged the development of equality reviews and action plans (Part VI of the Act), and many employers have received support from the Equality Authority for such initiatives. A revised Gender Equality Policy for the Civil Service was introduced in 2001, based on this legislation and similar initiatives have been taken in the private sector.

2. Have court cases/decisions resulted from the law? Has this data been systematically collected? If so, please provide details about the number of cases, convictions, decisions made.

The remedies available under the Act are set out in Part VII which provides that the decisions of the Equality Tribunal (now merged into the Workplace Relations Commission) would be published. An extensive body of decisions has developed and is available as a resource and searchable online from the website of the Workplace Relations Commission at www.workplacerelations.ie/en/Decisions\_Determinations/. Also found on this site are the Equality Tribunal's annual reports, available to 2014, providing statistics of complaints referred, mediation agreements made and decisions published under this legislation. Statistics are not readily available of the number of cases referred under each of the grounds by women.

3. What specific and measurable outcomes showing the impact of the law on society and on women’s enjoyment of their rights have been recorded as a result of the adoption and implementation of the law? How have these been monitored and by whom?

The impact of the law on women’s enjoyment of their rights has largely been monitored through periodic surveys of subjective experience of discrimination within Irish society carried out by the Central Statistics Office. A special module on the topic of equality and discrimination among people aged 18 years and over was included in the Quarterly National Household Survey (QNHS) in the 4th quarter of 2004 and repeated with some additions in the 4th quarter of 2010 and the 3rd quarter of 2014. This is a large-scale survey by the Central Statistics Office to produce labour force estimates. Respondents were asked whether they felt they had experienced discrimination, the type and grounds of discrimination, the impact and frequency of discrimination, and their knowledge of rights under Irish equality law and the action they took. The findings, published at the link below, indicate that the overall proportion of women who felt they had experienced discrimination in the previous two years was 13% in 2004, 12% in 2010 and 13% in 2014. Discrimination in the workplace (31%) and looking for work (22%) were most frequently cited by women who reported having experienced discrimination in 2014. 9% of women who reported experiencing discrimination lodged an official complaint or legal action, while 63% took no action. While there is no difference in the proportion of women and men reporting discrimination overall (13%), women were much more likely to report discrimination on marital and family status grounds and, to a lesser extent, on the gender ground.

<http://www.cso.ie/en/releasesandpublications/er/q-eq/qnhsequalitymodulequarter32014/>

The extent to which women experience unfair treatment at work in Ireland due to pregnancy was examined in a nationally representative survey of women's experiences at work during and after pregnancy undertaken in 2011. The survey found that up to 30% of women reported experiencing unfair treatment and 5% of women employed during pregnancy reported that they were dismissed, made redundant or treated so badly that they had to leave their job. Unfair treatment was less common among women working for small organizations and in workplaces that had a formal equality policy. This survey is one publication in the Equality Research Series commissioned from the Economic and Social Research Institute by the Equality Authority, the results of which are shared with the relevant Government Departments. These publications are available at the link below

<http://www.ihrec.ie/publications/list/category/researchreports/>

Information on the evolution of perceptions, attitudes, knowledge and awareness of discrimination in Ireland and in an EU context is also included in the "Discrimination in the EU" Eurobarometer surveys, conducted in 2006, 2009, 2012 and 2015 for the European Commission and the Member States. The most recent survey reported 69% of respondents in Ireland as stating discrimination on the gender ground was non-existent or rare, while 29% felt it was widespread. 22% felt that an employment candidate's gender may put him or her at a disadvantage. 94% of respondents felt comfortable with having a woman in the highest elected position in Ireland. 59% felt knowledgeable about their rights if they were victims of discrimination and 76% felt the efforts being made to fight all forms of discrimination were effective.

The Eurobarometer survey "Gender equality in the EU" conducted in 2014 found 51% of Irish men and 56% of Irish women felt inequalities between women and men were widespread in Ireland. 36% of Irish respondents felt equality bodies (i.e. the Equality Authority/IHREC and the Equality Tribunal) had contributed most to tackling inequality between women and men over the previous 10 years.

Details of these surveys are available at the link below:

<http://ec.europa.eu/COMMFrontOffice/PublicOpinion/index.cfm/General/index>

4. Are there other impacts of the law that have been observed?

Yes ( ) No ( X )

If yes, please list and explain what they are, as well as monitoring mechanisms used to observe and/or measure those impacts:

5. What mechanisms have been set up to review and assess the implementation of the law?

Policy responsibility for equality legislation is a matter for the Minister for Justice and Equality and the legislation is kept under review by her Department.

The functions assigned to the Equality Authority under this legislation (section 39) included keeping the working of the legislation under review and, whenever it thinks necessary, to make proposals to the Minister for amending the legislation. Since its enactment the Equality Authority (now the Irish Human Rights and Equality Commission) has been consulted on and has contributed to amendments to the legislation.

The Act also provided for a review of its operation, within 2 years of its coming into force, with a view to assessing whether there was need to add to the discriminatory grounds. A review, "Extending the scope of Employment Equality legislation: comparative perspectives on the prohibited grounds of discrimination", was commissioned from University College Cork and published in 2004. (Please see also question II.11).

As the legislation gives effect in Irish law to provisions of European Union anti-discrimination law, the legislation and its implementation are also kept under review by the European Commission.

6. Is there data on how the law has affected some groups of women differently (i.e. based on race, ethnicity, religion, social class, age, etc.)?

Yes ( X ) No ( )

If yes, please explain the differential impacts and provide any relevant documents.

Please see response to question III.3.

Analyses of the 2004 and 2010 QNHS Equality Surveys have been conducted by the Economic and Social Research Institute for the Equality Authority, and consider the characteristics of the individuals who report discrimination on various grounds.

[www.ihrec.ie/download/pdf/analysing\_the\_experience\_of\_discrimination\_in\_ireland.pdf](http://www.ihrec.ie/download/pdf/analysing_the_experience_of_discrimination_in_ireland.pdf)

[www.ihrec.ie/download/pdf/the\_experience\_of\_discrimination\_in\_ireland.pdf](http://www.ihrec.ie/download/pdf/the_experience_of_discrimination_in_ireland.pdf)

7. Has there been independent monitoring of the law?

Yes ( X ) No ( )

Please provide information.
Please refer to response to question III. 5 above.