

CONSTITUTIONAL CONVENTION

Grade

B-

GOVERNMENT COMMITMENT

The Programme for Government commits to establishing a process to ensure that the Constitution meets the challenges of the 21st century, by addressing a number of specific urgent issues as well as establishing a Constitutional Convention to undertake a wider review. It also promises to give priority to specific constitutional amendments, including:

- Referendum to amend the Constitution to ensure that children's rights are strengthened, along the lines recommended by the All-Party Oireachtas Committee on the Constitution.

Progress: Slow



WHAT'S HAPPENING?

The Constitutional Convention recommended that economic, social and cultural rights be given enhanced protection in the Irish Constitution. The Government did not respond to the recommendation in 2014.

The Constitutional Convention began its work on 1 December 2012 and comprised 100 members – 66 citizens drawn from the electoral register, 29 Oireachtas members and four from the Northern Ireland Assembly. Under its terms of reference, the Convention was required to consider eight different questions, including whether the voting age should be reduced to 17 years. The Convention also had the option to consider additional potential constitutional amendments. In December 2013, the Convention chose to consider economic, social and cultural rights. It subsequently recommended to the Government, by an overwhelming majority of 85 per cent, that economic, social and cultural (ESC) rights be given enhanced protection in the Constitution. It held its final session in February 2014. One year later, the Government has yet to formally respond to the recommendation.



COMMENT

The Constitutional Convention gets a **'B-'** grade in this year's *Report Card*. This reflects that while the Constitutional Convention recommended that economic, social and cultural rights should be included in the Irish Constitution, the Government, in contravention of its own rules, has yet to directly respond to this recommendation. Separately, the Taoiseach has confirmed that following the Marriage Equality and Presidential referenda, no further referenda will be called in the lifetime of the current Government.¹⁴

The establishment of the Constitutional Convention was a positive development and important in engaging ordinary citizens in the

¹⁴ An Taoiseach, Enda Kenny TD, *Dáil Debates, Order of Business*, 14 January 2015. <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2015011400026?opendocument> [accessed 13 February 2015].

future of the Constitution. The fact that the Constitutional Convention made a decision to consider and recommend that economic and social rights be protected in the Constitution is also a welcome development. Economic and social rights are intrinsically linked to the enjoyment of fundamental human rights but are largely considered to be non-justiciable before the Irish Courts today. This means that these rights are considered to be guidelines only and are not enforceable by law and before the courts. This means that decisions made when implementing laws and policies affecting housing, social security and health for example, are not guaranteed under the Constitution. The UN Convention on the Rights of the Child contains many economic and social rights such as the right to health and health services (Article 24) the right to social security (Article 26) and the right to an adequate standard of living (Article 27).

The Economic, Social and Cultural Rights Initiative, led by Amnesty International, has called on the Government to accept the Constitutional Convention's recommendation and to provide clear timelines in relation to any measures adopted to bring it forward. This would involve holding a referendum on economic, social and cultural rights in due course.¹⁵ However, to date the Government has not directly responded to the Constitutional Convention's recommendation. Instead the Taoiseach has confirmed that two other referenda will happen in the life of the current Government.¹⁶ The Taoiseach also confirmed that the Government will not be holding a referendum to implement another recommendation made by the Constitutional Convention, in relation to lowering the voting age from 18 years to 16 years. The National Youth Council of Ireland (NYCI) has expressed disappointment at this move stating that up to 120,000 sixteen and seventeen year olds will be denied the right to vote in the General Election and other elections and referenda.¹⁷



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Immediate Action for 2015

Accept and implement the recommendation of the Constitutional Convention to enhance protection of the on economic, social and cultural rights in the Constitution.

The Government should not delay any further in progressing the Convention's recommendation on economic, social and cultural rights. Given the importance of this category of rights to the lives of children, priority should be given to progressing this recommendation from the Convention.

Engage in a dialogue with the youth sector on the Convention's recommendation to lower the voting age

The Constitutional Convention recommended that the voting age should be lower from 18 to 16 years. The Government has indicated that it will not be holding a referendum on this issues. A dialogue is needed between Government and the youth sector in light of this decision.

¹⁵ ESC Rights Initiative, A call on the government to accept the recommendation of the constitutional convention on economic, social and cultural rights [online], 1 September 2014. <http://www.amnesty.ie/news/call-accept-recommendation-constitutional-convention-economic-social-and-cultural-rights> [accessed 13 February 2015].

¹⁶ S. Collins, 'Coalition abandons plan for poll on younger voting age', *The Irish Times*, 15 Jan 2015.

¹⁷ National Youth Council of Ireland, *No referendum on voting age: Youth Council expresses disappointment but says campaign will go on*, [press release], 15 Jan 2015.