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IE-Ireland: Referendum removes blasphemy from Irish Constitution

On 26 October 2018, a referendum was held in Ireland on whether the offence of blasphemy should be removed from the Bunreacht na hÉireann (Irish Constitution); 65% voted in favour and 35% voted against. As a result, Article 40.6.1 of the Irish Constitution no longer provides that the publication or utterance of blasphemous matter is an offence which shall be punishable by law. Following the referendum, the Irish Minister for Justice and Equality commented that the Irish people had sent a “message to the world - a strong message that laws against blasphemy do not reflect Irish values and that we do not believe such laws should exist”.

In July 2018, the Irish government introduced the Thirty-seventh Amendment of the Constitution (Repeal of the offence of the publication or utterance of blasphemous matter) Bill 2018, which was enacted by the Irish parliament in September 2018. It provided that the word “blasphemous” be removed from Article 40.6.1 of the Irish Constitution, which read: “The publication or utterance of blasphemous, seditious, or indecent matter is an offence which shall be punishable in accordance with law”.

Notably, the particulars of the offence of blasphemy are contained in Sections 36 and 37 of the Defamation Act 2009 (see IRIS 2009-10/19); following the referendum result, the Minister for Justice and Equality announced the Irish government would now move to repeal those provisions. Section 36(2) defines blasphemous matter as “grossly abusive or insulting in relation to matters held sacred by any religion, thereby causing outrage among a substantial number of the adherents of that religion, [with the intention], by the publication or utterance of the matter concerned, to cause such outrage”.

However, it is a defence for a defendant to prove that a reasonable person would find genuine literary, artistic, political, scientific, or academic value in the matter to which the offence relates. The offence carries a penalty of a fine not exceeding EUR 25,000.

There has never been a successful prosecution for blasphemy in Ireland. However, in 2017, a widespread public debate on the issue occurred following a complaint made to the police over an interview with the writer Stephen Fry on the subject of God, broadcast by the public broadcaster RTÉ. Following a two-day police investigation, no further action was taken.

• Thirty-seventh Amendment of the Constitution (Repeal of offence of publication or utterance of blasphemous matter) Bill 2018, No. 87 of 2018
<http://merlin.obs.coe.int/redirect.php?id=19336>

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