



## International Covenant on Civil and Political Rights

Distr.: General  
22 November 2013

Original: English

---

### Human Rights Committee

#### List of issues in relation to the fourth periodic report of Ireland\*

##### Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Given that the Covenant is not directly applicable in the State party, please provide information on measures taken to ensure that all of the Covenant provisions are fully given effect in its domestic legal order, including any progress achieved in the “tabulation of relevant provisions to clarify the situation”, which the State party undertook to implement during the consideration of its third periodic report in 2008.
2. Taking note of the withdrawal of the State party’s reservations to articles 14 and 19(2) of the Covenant, please clarify whether the State party will also review its reservations to article 10, paragraph 2 and article 20, paragraph 1 with a view to withdrawing them. If not, please indicate why, identifying the remaining obstacles.
3. Please provide updated information concerning:
  - (a) The merger of the Irish Human Rights Commission and the Equality Authority into a new Irish Human Rights and Equality Commission (IHREC), including details of how the new IHREC will be in compliance with the Principles relating to the Status of National Institutions (the Paris Principles), in particular with regard to financial autonomy, independent and transparent procedures for the recruitment and election of the Chief Commissioner and the members, and direct accountability to Parliament;
  - (b) The proposed merger of the Labour Court, Labour Relations Commission, Employee Appeals Tribunal, National Employment Rights Authority and Equality Tribunal into one agency. In particular, please clarify how complaints and appeals in relation to the Equal Status Acts 2000–2011 will be dealt with by the new agency; and
  - (c) The measures adopted to ensure the effective transfer of the mandates and responsibilities of the National Consultative Committee on Racism and Interculturalism and the Combat Poverty Agency into new or existing bodies, given their abolishment in 2008 and 2009 respectively. Please also indicate any plans to adopt a successor to the National Action Plan Against Racism 2005–2008.

---

\* Adopted by the Committee at its 109th session (14 October–1 November 2013).

4. Please provide further information on:
- (a) The types of complaints filed with the Garda Síochána Ombudsman Commission (GSOC) and their outcomes during the reporting period, including details of non-fatal offences;
  - (b) The current backlog of cases before GSOC and the exact nature of these cases;
  - (c) What measures the State party is taking to ensure cooperation of the Garda with the investigations undertaken by GSOC; and
  - (d) Cases in which GSOC referred complaints to the Garda Commissioner for investigation. How does the State party reconcile this practice of investigative referrals with the duty to conduct independent investigations of complaints?
5. Please provide information on how the Government addresses concerns regarding the activities of private businesses based in the State party that may lead to violations of the Covenant outside the territory of the State party.

**Non-discrimination, right to an effective remedy and equal rights of men and women, including political participation (arts. 2 para. 1, 3, 16 and 26)**

6. Please provide updated information on:
- (a) Steps taken or envisaged to amend article 41.2 of the Constitution in line with the Committee's previous recommendation (CCPR/C/IRL/CO/3, para. 10), as well as the recommendation outlined in the second report of the Convention on the Constitution, including a timeframe to hold a referendum;
  - (b) The General Scheme of the Electoral (Amendment) (Political Funding) Bill 2011, which aims at increasing the representation of women in politics; and
  - (c) Measures taken to increase the representation of women in decision-making positions, and to meet the 40 per cent target in all State board positions as outlined in the Programme for a National Government 2011–2016.
7. Please inform the Committee of the progress in adopting the Assisted Decision Making (Capacity Bill).

**Domestic, sexual and gender-based violence (arts. 3, 7, 23, 24 and 26)**

8. Please provide updated information on:
- (a) Steps taken to establish a systematic data collection procedure concerning cases of domestic and sexual violence;
  - (b) Complaints, prosecutions and sentences in relation to violence against women, including in relation to Traveller women, migrant women, asylum-seeking and refugee women and women with disabilities, during the reporting period; and
  - (c) Measures taken to ensure that women in dating relationships and unmarried cohabitants have equal access with regard to barring orders against perpetrators of violence, and that non-citizens whose status is linked to that of their partner under the Habitual Residence Condition are able to flee from situations of domestic violence to access the necessary welfare and support services and to obtain separate residence permits.
9. Please clarify:
- (a) When the State party will establish a prompt, thorough and independent investigation into the abuse perpetrated in the Magdalene Laundries as recommended by the Irish Human Rights Commission in its follow-up report on State involvement with Magdalene Laundries; and

(b) How the redress scheme proposed by Mr. Justice John Quirke will be monitored by an independent body, and how the appeals process will operate.

10. Taking note of the information received that the Monitoring Group for the “Ryan Implementation Plan” – adopted pursuant to the report of the Commission to Inquire into Child Abuse – will reportedly conclude its work in 2013, please provide information on the replacement mechanism to ensure the full implementation of the plan, as well as on the number of criminal prosecutions in child abuse cases.

**Derogation (art. 4)**

11. Please provide further information on measures taken to ensure that its domestic legal provisions, including article 28.3 of the Constitution, are consistent with article 4 of the Covenant, as recommended by the Committee in its previous concluding observations.

**Right to life (arts. 6, 7 and 17)**

12. Please provide information on:

(a) How the Protection of Life During Pregnancy Act 2013 is in compliance with articles 6 and 7 of the Covenant and the Committee’s previous recommendations;

(b) Concrete measures that are being taken or envisaged to clarify what a “real and substantial risk” to the pregnant women’s life means in practice, in order to provide legal and clinical clarity for health providers and certainty for women experiencing potentially life-threatening pregnancies;

(c) Whether the State party intends to introduce measures to broaden access to abortion to guarantee women’s rights under the Covenant, including when the pregnancy poses a risk to the health of the pregnant woman, where the pregnancy is the result of a crime, such as rape or incest, cases of fatal foetal abnormalities, or when it is established that the foetus will not survive outside the womb; and

(d) Circumstances in which the Director of Public Prosecutions may authorize prosecutions, and against whom, under section 22 of the Act.

**Right to liberty and security of person, prohibition of torture and cruel, inhuman or degrading treatment or punishment, and treatment of persons deprived of their liberty, and fair trial (arts. 7, 9, 10, 14 and 24)**

13. Please provide updated information on:

(a) The number of prisoners accommodated in each of the prisons in the State party vis-à-vis the maximum capacity for each prison outlined by the Inspector of Prisons in his report of May 2013;

(b) The number of remaining prisons without in-cell sanitation out of all the prisons in the State party, and the time frame to abolish the practice of “slopping out”;

(c) The mortality rate in prisons and the number of victims (dead and injured) harmed by inter-prisoner violence; and

(d) Timeline for ending the use of St. Patrick’s Institution for the detention of minors.

14. Please provide statistical data on the number of complaints of torture and ill-treatment filed against prison officers, the number of investigations instituted, and the number of prosecutions and convictions imposed. Please also clarify what steps have been taken to establish an independent and effective complaints and investigation mechanism to investigate complaints against prison staff, including allegations of ill-treatment, as recommended by the Inspector of Prisons.

15. Please provide information on the progress achieved in ensuring the separation of sentenced and remand prisoners, and of detained immigrants from criminal prisoners.

16. Please clarify the legal provisions providing for the right of criminal suspects to contact counsel before interrogation, as well as during interrogation in police detention facilities. Please also provide information on how individuals held in police custody are informed in a timely and consistent fashion of the consequences of remaining silent.

17. Please provide updated information on measures taken to prohibit all corporal punishment of children in all settings, as well as any public campaigns undertaken to educate parents and the general public about its harmful effects and to promote positive non-violent forms of discipline as an alternative to corporal punishment.

18. Please provide further information on specific and concrete steps taken, beyond official assurances, to ensure that aircrafts used for the purpose of extraordinary rendition, whether they carry prisoners on board or not, do not pass through the territory of the State party. What measures are taken to investigate past allegations concerning the use of the State party's territory for the purpose of extraordinary rendition flights?

19. Please provide detailed information on:

(a) The number of so-called voluntary patients who have been detained under section 23 or section 24 of the Mental Health Act 2001 during the reporting period;

(b) How the State party intends to improve conditions in mental health facilities and compliance by mental health institutions with the statutory Code of Practice on the Use of Physical Restraint in Approved Centres and the Rules Governing the Use of Seclusion; and

(c) The use of Electro Convulsive Therapy (ECT) in relation to both voluntary and involuntary patients who are accommodated in approved centres during the reporting period, and on any steps taken to ensure that ECT remains a treatment of last resort and that consent to ECT treatment is explicitly set out in law.

#### **Elimination of slavery and servitude (arts. 2, 8 and 24)**

20. Please provide information on:

(a) Steps taken to establish a systematic data collection procedure concerning victims of trafficking and forced labour as well as a case management system to track the delivery of services to such victims across multiple Government agencies;

(b) The extent of sale or trafficking in persons for any purpose or in any form, including abductions of children, as well as related prosecutions and sentences during the reporting period;

(c) How victims of trafficking who have sought asylum can also benefit from the recovery and reflection period or temporary residence permission;

(d) The availability of timely and adequate access to and provision of legal services for victims of trafficking and forced labour; and

(e) The applicability of anti-trafficking legislation to EU residents or nationals.

#### **Imprisonment for failure to fulfil a contractual obligation (art. 11)**

21. Please provide statistics on the number of individuals who were imprisoned for non-payment of court ordered fines or civil debt during the reporting period. Please clarify what steps are being taken to ensure that no one is imprisoned for failure to pay a civil debt or fine that he or she cannot pay.

**Refugees and asylum seekers (art. 13)**

22. Please provide information on measures taken to:
- (a) Reduce the delay in the processing of asylum claims;
  - (b) Establish an independent appeals body to review all immigration-related decisions, as recommended by the Committee in its previous concluding observations;
  - (c) Ensure that asylum-seekers have full access to early and free legal representation, as recommended by the Committee in its previous concluding observations;
  - (d) Establish an independent complaints or monitoring mechanism available to persons living in Direct Provision centres; and
  - (e) Review its detention policy with regard to asylum-seekers and give priority to alternative forms of accommodation, as recommended by the Committee in its previous concluding observations.

**Right to fair trial and independence of the judiciary (art. 14)**

23. While noting the responses received from the State party to the Committee's previous concluding observations on paragraph 11 under its follow-up procedure, as well as information provided in paragraphs 567 to 578 of the State party report, please provide updated information on:

- (a) Any measures taken to define "terrorist acts" in domestic legislation;
- (b) The number of terrorist acts that have been investigated and prosecuted, including information on the length of pretrial detention and access to a lawyer in practice;
- (c) The need for continuing the operation of Special Criminal Courts and expanding their jurisdiction, the criteria used by the Director of Public Prosecution to determine whether a case is eligible to be heard before the Special Court, and why these criteria have not been published; and
- (d) The compatibility with the Covenant of Part 4 of the Criminal Justice (Amendment) Act 2009 which allows, under certain conditions, for a hearing to take place *ex parte*, if the judge considers that there may be a risk of prejudice.

**Right to be recognized as a person before the law (art. 16)**

24. Please provide detailed information on the steps taken to issue birth certificates to transgendered persons and how transgender organizations have been included in such process, including in relation to the Gender Recognition Bill.

**Freedom of religion (art. 18)**

25. Taking note of the information provided in paragraph 611 of the State party report, please provide updated information to amend the constitutional provision requiring a religious oath from judges to allow for a choice of a non-religious declaration, as recommended by the Committee in its previous concluding observations (CCPR/C/IRL/CO/3, para.21).

26. Please provide information on steps being taken to ensure that the right of children of minority religions or non-faith are also recognized in the Education Act 1998, and the number of non-denominational primary schools that have been established during the reporting period. Please also clarify whether there is an accessible and independent complaint handling mechanism to resolve disputes between parents and schools.

**Freedom of opinion and expression (art. 19)**

27. Please provide updated information concerning the measures taken or envisaged to remove the offence of blasphemy from article 40.6.1(i) of the Constitution as well as section 36 of the Defamation Act 2009.

**Rights of persons belonging to minorities (arts. 2, 23, 24, 26 and 27)**

28. Please clarify what concrete steps have been taken to recognize Travellers as an ethnic minority based on the principle of self-identification. Please indicate concrete measures taken to support their nomadic or semi-nomadic way of life.

29. Given the lack of information provided in the State party report concerning the situation of Roma communities, please clarify specific measures taken to ensure their full enjoyment of Covenant rights, including their right to political participation and the right to be protected against arbitrary interference with their family life.

30. Please explain whether the State party is planning to revise its criminal legislation prohibiting hate speech, with a view to rendering more comprehensive and effective the protection of minority groups.

---