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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 40 OF THE COVENANT**

**IRELAND\***

**Information received from Ireland on the implementation of the concluding observations of  
the Human Rights Committee (CCPR/C/IRL/CO/3)**

[31 July 2009]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

1. Following consideration by the Human Rights Committee in July 2008 of Ireland's third periodic report under the International Covenant on Civil and Political Rights, the Committee stated in paragraph 25 of its concluding observations (CCPR/C/IRL/CO/3):

"In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraph 11, 15 and 22 above".

2. In line with the Committee's request, Ireland is pleased to provide for the information of the Committee the information contained in this document on the relevant paragraphs of the Committee's concluding observations. Copies of the various legislative and statutory provisions referred to can be provided to the Committee, if required.

3. The Committee may be aware that on 26 January 2009, Ireland notified the Secretary-General that it had decided to withdraw the reservation with respect to article 14 made upon ratification, which read as follows: "Ireland reserves the right to have minor offences against military law dealt with summarily in accordance with current procedures, which may not, in all respects, conform to the requirements of article 14 of the Covenant."

### **Response of the State party to paragraph 11 of the concluding observations of the Committee**

#### **Counter-terrorism measures**

4. The position in respect of defining "terrorist acts" is that Ireland's domestic law already defines both "terrorist activity" and "terrorist-linked activity" and the various offences for the purposes of these definitions are clearly set out in the Criminal Justice (Terrorist Offences) Act 2005. This Act gives effect, inter alia, to the European Union Framework Decision on Combatting Terrorism, which is directed to the approximation of the laws of the EU member States in relation to a common definition of terrorist offences.

5. The general approach in Irish law in this regard is to focus on the criminalization of activities that may constitute offences and which may be committed in pursuit of terrorist ends. The offences involved are offences in the Irish criminal law. Ireland's view is that the subject-matter of the Committee's observation in this regard is already adequately covered in Ireland's domestic law and that therefore no change is warranted.

6. Detention in connection with terrorist offences takes place in Garda stations only and is subject at all times to the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987 which provide a range of protections and safeguards, including an obligation to inform the detained person of his/her right to consult a solicitor without delay.

7. The provisions and operation of Ireland's anti-terrorist laws are kept under review by the Government. Furthermore, insofar as certain provisions of the Offences against the State (Amendment) Act 1998 are concerned, there is a specific statutory requirement that these are the subject of an annual Parliamentary review and their continued operation must also be approved

by both Houses of the Oireachtas (Ireland's Parliament). As part of this review and renewal process the Minister for Justice, Equality and Law Reform must prepare a report on the operation of these sections in the previous year and have this report laid before both Houses of the Oireachtas prior to the debate on the motions for renewal.

### **Alleged extraordinary renditions**

8. As the Committee is aware, the Government of Ireland is completely opposed to the practice of so-called extraordinary renditions. There is a specific commitment in the Programme for Government 2007-2012 to ensure that all relevant legal instruments are used so that the practice of extraordinary rendition does not occur in Ireland. The Government has made it clear that any person with information that Irish airports have been used for any alleged unlawful purpose should immediately report their concerns to the Garda Síochána (National Police Service), which would have responsibility for investigating such matters.

9. Where complaints of alleged unlawful activity concerning the use of Irish airports have been made to the Garda Síochána, investigations have ensued and, where appropriate, files have been submitted to the Director of Public Prosecutions. In the very small number of cases investigated, no further action was found to be warranted, owing to a lack of evidence of any unlawful activity.

10. As the Committee is aware, the Government has received assurances from the United States authorities at the highest level on this matter; these assurances are specific that prisoners have not been transferred through Irish territory, nor would they be, without permission.

11. In October 2008 the Government established a Cabinet Committee on Aspects of International Human Rights. The work of this committee includes an examination of the current legal framework and how systems of monitoring traffic through Irish airports might be improved.

### **Response of the State party to paragraph 15 of the concluding observations of the Committee**

12. The Irish Prison Service (an executive agency with the Department of Justice, Equality and Law Reform) has been engaged in an extensive programme of investment in prisons infrastructure which involves both the modernization of the existing estate and the provision of extra prison spaces. The aim of this significant investment programme is to ensure that Ireland has a high-quality, regime-focused prisons infrastructure designed to meet the diverse needs of the prisoner population. In so doing the expectation is that issues of concern such as those raised by the Committee will be addressed

### **Overcrowding**

13. Since 1997 in excess of 1,400 prison spaces have come on stream in the prison system. These include the new prisons in Castlerea, the Midlands, Cloverhill, the Dóchas Centre and new accommodation in Limerick Prison.

14. Despite this significant investment, it is quite clear that some prisons are operating in excess of their bed capacity at this time. There has been a consistent increase in the total prisoner population over recent years. This situation is particularly apparent over the past 12 months during which time the total number in custody has increased by 319. This represents an 8.8 per cent rise in the number in custody. There are a number of reasons for this increase including an increase in successful prosecutions and extra court sittings, both of which have resulted in higher committal rates. As of 23 July 2009 there were 3,786 permanent beds available in the prison system. On the same day there were 3,924 prisoners in custody. This represented an occupancy level of 104 per cent.

15. However, in the short to medium term this issue will be addressed by the provision of an additional 400 prison spaces this year by means of:

- a new block in Castlerea Prison which opened in June accommodating approximately 100 prisoners;
- a new block in Portlaoise Prison which will accommodate approximately 150 prisoners and which is expected to open in the near future;
- a new block in Wheatfield Prison which will accommodate in excess of 150 prisoners due to be completed in the autumn.

#### **In-cell sanitation and separation of remand prisoners**

16. Over 70 per cent of prisoners in custody now have 24hour access to in-cell sanitation due in large measure to the investments made in more recent years. Notwithstanding this level of investment the Irish authorities acknowledge that we must continue with the modernization of our prisons and that is why the ambitious prison building programme is continuing. The impact of this investment commitment is that almost 40 per cent of the entire prison estate will be replaced and the practice of “slopping out” will be eliminated. Similarly the separation of remand prisoners from sentenced prisoners will be achieved with the completion of the new prisons at Thornton Hall and Kilworth.

#### **Developments with respect to the Thornton Hall complex**

17. The Committee will recall the outline of the development programme and time frame for a new prisons complex at Thornton Hall, North County Dublin provided to it in July 2008. Earlier this year, however, the Irish Prison Service broke off negotiations with the preferred bidder in the competition to design, build, maintain and finance the facility.

18. This decision was taken following a detailed evaluation by the Irish Prison Service and its advisers of the final financial offer from the consortium (Léargas), which resulted in the offer being deemed to be not affordable in light of the significant increase in the cost of finance. The project was simply unaffordable at the price being quoted by Léargas and, in view of the current economic circumstances, a new project which reflects the current economic and fiscal realities and protects the taxpayers interests was required. In this regard, the Minister for Justice, Equality and Law Reform brought a new proposal to Government in June 2009.

19. The revised plans for Thornton Hall Prison aim to protect the taxpayers' interests while, at the same time, providing modern, regime-focused and operationally efficient accommodation to replace the Mountjoy Prison complex in the shortest possible time frame.

20. It is intended that the new prison will be built on a phased basis. Phase one involves the provision of essential preliminary work required to facilitate the development, such as the construction of a dedicated access route, services and perimeter wall. The preliminary works in phase one of the project will be procured on the basis of separate contracts to the main prison development. Work is expected to start on this phase towards the end of this year or early next year. This phase of the project does not include the provision of prison places.

21. It is expected that an EU-wide tender competition for the main prison buildings will be launched early next year. The objective is to complete the procurement process for the main prison buildings while the construction of phase one is underway, thus enabling construction of the main prison buildings to commence immediately after the awarding of the contract.

22. The construction of the main prison buildings should take no more than three years from the date of the signing of a contract. The new prison at Thornton will have a capacity of 1,400 in single occupancy cells but with operational flexibility to accommodate a larger number of prisoners, if required.

### **Mental health care**

23. The Irish Prison Service is working to further develop mental health services and increase integration with statutory and voluntary partners. Mental health service provision in prisons must form part of the overall community response to this disability.

24. The Central Mental Hospital (CMH) provides 21 Consultant-led in-reach sessions to the prisons in the Dublin area and the Portlaoise/Midlands complex.

25. In relation to mental health provision in Cork, Limerick and Castlerea, specialist in-reach services are in place for Consultant-led mental health sessions to provide appropriate services to prisoners in these prisons.

26. In December 2008, ten additional beds were made available to the Irish Prison Service at the CMH. The availability of the additional beds has been of considerable assistance to prison management and health-care staff in tackling waiting list for prisoners who require admission to the CMH and in providing appropriate mental health care to treat acutely mentally ill prisoners.

### **Violence**

27. The mission of the Irish Prison Service is to provide safe, secure and humane custody for those placed into custody. This is one of the main reasons for the introduction of recent security initiatives, such as airport-style security screening, including x-ray machines and scanning equipment, the establishment of the Operational Support Group, the establishment of a drug detection dog service, the segregation of a number of serious drug and criminal gang members in a high security unit in Cloverhill Prison and the use of phone detectors and phased installation of mobile telephone blocking technology.

28. No level of inter-prisoner violence is acceptable. Every effort is made by prison staff and management to limit the scope for acts of violence. While the prison regime is designed to limit the scope for acts of violence, it is not possible to completely eliminate the possibility of such acts in prisons holding a high proportion of violent offenders without introducing a regime that would be unacceptable.

29. Recent statistics indicate that since the new security measures were implemented, there has been a marked reduction in the number of incidents of violence where a weapon was used.

### **Developments with respect to alternatives to custody**

30. As outlined in material previously supplied to the Committee, a range of alternatives to custody exist in Irish law and are widely availed of. Since receipt of the Committee's concluding observations, there have been a number of developments of relevance in this regard which should have a bearing on the further utilization of alternatives to custody.

#### *National Commission on Restorative Justice*

31. A National Commission on Restorative Justice has recently reported to the Minister for Justice, Equality and Law Reform on the potential for using the concept of restorative justice more widely for adult offenders in Ireland. The report is being examined and the Minister will be announcing his proposals in due course. The Department, through the Probation Service, already funds two projects delivering the restorative justice concept in Ireland. The National Commission examined, inter alia, how restorative justice works in other jurisdictions and its broad conclusion is that it could form part of the disposal options available to the judiciary in this jurisdiction.

#### *Community service orders*

32. The Criminal Justice (Community Service) Act 1983 provides a statutory basis whereby a court may make a community service order as an alternative to a sentence of imprisonment or detention in respect of an individual over the age of 16 years who has been convicted of a criminal offence and who consents to the order being made. Under the order an offender is required to perform unpaid work of between 40 and 240 hours which should normally be completed within a 12-month time period. The aim of a community service order is to rehabilitate the offender and make meaningful reparation to the community for the crime. The scheme is currently the subject of a value for money and policy review. This report is nearing finalization and will inform the future scope and direction of the scheme. The indications are that greater use can be made of the scheme.

#### *Electronic monitoring*

33. A Project Board, led by the Probation Service, is currently examining how Ireland could make use of electronic monitoring technology. The Board's findings are expected in the autumn and will inform future decisions on how this technology could assist in the management of offenders.

*Legislative developments*

34. There have also been a number of legislative developments of relevance under this heading. The Enforcement of Court Orders (Amendment) Act 2009 introduces additional protections in respect of a person who is the subject of debt enforcement proceedings, including a requirement that the debtor be present before the court before a committal order can be issued, that they have access to legal aid and that the burden of proof is on a creditor to establish that a debtor has means and is refusing to pay. It also provides the court with a number of options as alternatives to imprisonment, including making a variation order to lessen the terms of an instalment order which the debtor has breached, or requiring the parties to participate in mediation. In addition to being of relevance to the question of prison committals generally, this development should also be of interest to the Committee in view of its recommendation in paragraph 18 of the concluding observations concerning the risk of imprisonment for inability to fulfil a contractual obligation.

35. Furthermore, the fines bill 2009 introduces a number of measures to provide non-custodial alternatives to the courts for dealing with persons who default on the payment of a fine. These include providing for the recovery of a fine as a civil debt by the making of a recovery order or by appointing a receiver as well as allowing the courts to impose a community service order rather than a custodial sentence for non payment of a fine.

**Response of the State party to paragraph 22 of the concluding observations of the Committee**

**Summary of key developments**

36. The Government of Ireland recognizes that the changing shape of Irish society has placed new demands on the education system in responding to the needs of emerging communities. The role of the traditional churches in managing and providing schools is acknowledged, as is the growing role of other patronage bodies.

37. This report is intended to update the Committee on progress in the past year and to highlight a number of forthcoming developments. The key developments include:

- **June 2008:** Major conference hosted by the Minister for Education and Science on the Governance Challenge for Future Primary School Needs;
- **September 2008:** Initiation of pilot schemes for a new model of community national (i.e. primary) school. A formal evaluation process is assessing the project at all stages, including the current operational phase;
- **(Forthcoming) Autumn 2009:** Publication of primary legislation to put in place a legal framework which will facilitate this new model of patronage in the primary system.
- **(Forthcoming) End of 2009:** Commission on School Accommodation review of the criteria and procedures for the recognition and establishment of new primary schools, and relevant recommendations, to be provided to the Minister for Education and Science. This review will consider, inter alia, (i) criteria that must be met to become a patron and

(ii) circumstances where changes to patronage may be warranted. A technical group has also been considering the general approach to maximizing the use of existing spare capacity where this arises, including possible changes to patronage.

### **Diversity in the current system of patronage**

38. In noting the progress which has been made in the past year and in highlighting upcoming developments, it is important to set out the current position with regard to diversity of patronage in the Irish primary school system.

39. Irish schools have traditionally welcomed and continue to welcome pupils from all backgrounds, including the children of immigrants, and many would have large numbers of children from different faith backgrounds enrolled. An audit of school enrolment published in 2007 by the Department of Education and Science found that non-Catholic migrant students were enrolled across most Catholic schools nationwide. Any notion of children having to convert to Catholicism or any other religion or faith is wholly unfounded and is not supported by any evidence.

40. Section 30 (2) (e) of the Education Act 1998 provides that students are not required “to attend instruction in any subject which is contrary to the conscience of the parent of the student or in the case of the student who has reached the age of 18 years, the student”

41. The changing shape of society is placing new and complex demands on our education system in responding to the diverse needs of our communities. The majority of new primary schools that have opened in recent years have been multid denominational in ethos. These schools have introduced a new level of choice for parents in many areas.

42. Of the 22 new primary schools awarded recognition for the 2008/2009 school year, only 5 are under the patronage of the Catholic Church. In the period 2005 to 2008 the fastest growing sector was the multid denominational sector with an increase from 34 to 58 and the inter denominational sector had an increase from 5 to 9. The following table gives a breakdown of patronage/ethos of primary schools in 2005 and 2008.

<b>Catholic (a)</b>	<b>Church Ireland and (b)</b>	<b>Presbyterian</b>	<b>Methodist</b>	<b>Multi-D (c)</b>	<b>Inter-D (d)</b>	<b>Muslim</b>	<b>Jewish</b>	<b>Other (e)</b>	<b>VEC Community National School (f)</b>	<b>Total</b>
3,039 (2005)	183	14	1	34	5	2	1	0	0	3279
3,027 (2008)	183	14	1	58	9	2	1	5	2	3302

#### **Notes:**

(a) Includes Gaelscoileanna (schools where the medium of instruction is through the Irish language), special schools, 1 hospital school and 5 Model schools where the Minister for Education and Science is Patron.

(b) Includes 4 Model schools where the Minister for Education and Science is Patron (the Church of Ireland is part of the Anglican Communion).

(c) Multi-denominational includes John Scottus National School, Killashee National School and 8 Gaelscoileanna.

(d) Includes 7 Gaelscoileanna.



(e) Includes Religious Society of Friends (Quakers) (1), Ability West Special Schools (3) and The Cope Foundation Special School (1).

(f) New Community National Schools Pilot in Dublin.

### **Review of the criteria and procedures for recognition and establishment of new primary schools**

43. A full review of the criteria and procedures for the recognition and establishment of new primary schools is currently being undertaken by the Commission on School Accommodation (CSA). It is expected that this review will be completed and recommendations made to the Minister for Education and Science by the Commission before the end of 2009.

44. Among the broad range of issues being considered by the Technical Working Group of the Commission is the issue of patronage, including the criteria that must be met to become a patron and the circumstance where changes to patronage may be warranted. The Technical Working Group will also consider the general approach to maximizing the use of existing spare capacity where this arises, including possible changes to patronage.

45. The approach being adopted by the Department of Education and Science and the Commission on School Accommodation will ensure that any changes to current patronage arrangements are well planned and managed in a manner that accommodates the interests of parents, teachers and local communities and that they also contribute to an inclusive education system.

46. In the interim, it is not the Minister's intention to recognize new schools, except in areas where the increase in pupil numbers cannot be catered for by extending existing schools and where new schools are therefore warranted. In this context, the Minister for Education and Science also informed the Oireachtas on 2 July 2009 that:

“My Department is currently consulting directly with patrons about specific areas where the establishment of new schools will be required and how emerging demands in these areas will be addressed and, as part of the process, will be seeking details of any schools where a change of patronage might potentially be relevant.”

### **Conference on the governance challenge for future school needs**

47. In June 2008, the Minister for Education and Science hosted a conference on the Governance Challenge for Future Primary School Needs.

48. The conference was an opportunity for the main patron bodies to outline their vision of how the system needs to collectively evolve to respond to changing societal circumstances.

49. It focused on the particular challenges of ethos and inclusion for patron bodies, under both the new and existing patronage models together with the long-term challenges of organizing and developing our system of school governance to accommodate new parental aspirations. The conference also dealt with issues of capacity, choice, the need to cater for diversity and ensure inclusion and the consequent implications for enrolment policies.

### **New model of community national (primary) school**

50. In December 2007, the then Minister for Education and Science announced a new State model of community national (i.e. primary) school, under the patronage of a Vocational Education Committee (VEC), a local education body established under statute. The schools will be interdenominational in character and will operate through an ethos of inclusiveness and respect for all beliefs, both religious and non-religious. The community national schools will operate in a spirit of partnership between patron, teachers, students, parents and the wider community served by the school.

51. The aim is to provide an additional choice that can accommodate the diverse preferences of parents, having regard to the increased diversity of our communities.

52. The new model of community national school is being piloted since September 2008 in two locations in the Dublin area.

53. The new model of primary school patronage is not intended to replace the existing models but to provide an additional option, likely to be used particularly in areas of growing population. The new community national schools aim in particular to meet the changing demands and expectations of society, notably the demand for diversity.

54. A joint Department of Education and Science/Vocational Education Committee Steering Group is overseeing the development of the new schools including arrangements for the delivery of religious education and evaluation of the pilot phase of the new model.

55. Primary legislation is necessary to put in place a legal framework which will facilitate this new model of patronage in the primary system. The scheme of the education (patronage) bill has been approved by Government and is expected to be published in autumn 2009.

56. The community national schools are committed to a high standard of education where each child is helped to reach his/her personal potential. They are operating in a spirit of partnership between patron, teachers, students, parents and the wider community served by the school.

### **Teaching of religion in the pilot schools**

57. The pilot model is proceeding on the basis of very clearly stated principles in respect of the availability of religious education during the school day, in conformity with the wishes of parents.

58. Families of all faiths and none are welcome and are being supported through the curriculum offered in the schools. The schools acknowledge and celebrate religious diversity in an atmosphere of inclusiveness - rather than seeking to avoid it. They also cater for parents who do not wish their children to receive religious education in any one particular faith.

59. The delivery of a multi-belief programme in the new schools is being developed on an action research basis over the course of the pilot phase. The action research provides an

opportunity for the faith communities, teachers, parents and others involved to share in addressing the practical classroom challenges involved.

60. The nature of the research allows different approaches to be developed and assessed allowing conclusions to be drawn for the future. The action research is being assisted by a Reference Group made up of representatives of the main churches and faith groups, together with representatives of non-theist and polytheist perspectives. Educational experts in the field of curriculum development and teaching of religion are also involved.

61. Discussions on the development of the religious education programme have also taken place with relevant Church, faith and other interest groups. These include the Commission on Education of the Irish Catholic Bishops' Conference, representatives of the other main Christian churches, the Muslim community, the Buddhist tradition and the Humanist Association. There are also plans to have discussions with representatives of the Jewish community and the Society of Friends.

62. Continued dialogue with the various church, faith groups and other representative groups will be an important element in this process, as will the views of parents and the choices they make for their children.

63. The practical issues arising in respect of the teaching of religion, and the lessons that can be drawn for future roll-out of the model, will be carefully monitored during the pilot phase.

#### **Evaluation of the pilot scheme**

64. The pilot phase of the new model provides an important learning opportunity and its evaluation will enable informed decision on a possible roll-out of this model of patronage in other locations in the future. A subcommittee of the Department of Education and Science/VEC Steering Group has developed a framework of evaluation criteria to assess the project from its inception through to its ongoing operational stage. A formal process has been established to collate enrolment and other key information from the schools at start-up stage and to allow useful comparative data to be collected over the period of the pilot.

65. The teaching staff and management of the new schools will be central to the evaluation process. Their engagement and feedback will provide important insights, as will those of parents, pupils and the local community together with neighbouring schools and other relevant education partners. The Inspectorate of the Department of Education and Science and other education services working with the schools will also play an active role.

66. Future roll-out of the model will be considered in the context of emerging needs and the availability of funds.

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