



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
8 June 2020

Original: English
English, French and Spanish only

Committee against Torture

List of issues prior to submission of the third periodic report of Ireland*

Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee's previous recommendations

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations (CAT/C/IRL/CO/2, para. 37),¹ the Committee requested the State party to provide information on follow-up to the Committee's recommendations on issues of particular concern contained in paragraphs 8, 20 and 26 of those concluding observations, namely, on the ratification of the Optional Protocol to the Convention; on strengthening the independence of the Garda Síochána Ombudsman Commission; and on investigating allegations of ill-treatment of women in the Magdalen laundries and ensuring that all victims of ill-treatment who worked in the Magdalen laundries obtained redress. The Committee expresses its appreciation for the State party's follow-up response on those and other matters contained in its concluding observations and the substantive information provided on 9 August 2018 (CAT/C/IRL/CO/2/Add.1) on the follow-up issues. The Committee considers that the recommendations included in the above-mentioned paragraphs have been partly implemented (see paras. 10 (a), 12 (c), 13 (a)–(c), and 14 (a) and (b) of the present document).

Article 2²

2. With reference to the Committee's previous concluding observations (paras. 9–10), please provide information on:

(a) The commencement of section 9 of the Criminal Justice Act, aimed at ensuring that all persons deprived of their liberty by the police enjoy in law and in practice the right of prompt access to a lawyer, including during the initial interview and

* Adopted by the Committee intersessionally on 7 May 2020.

¹ Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

² The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2, the obligation to prevent torture in article 2 is wide-ranging. The obligation to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.



interrogations by the Gardai, from the time of their apprehension; in this context, please comment on the Supreme Court decision in *DPP v. Doyle*;

(b) The current status of the Inspection of Places of Detention Bill and on any other legislation establishing an independent body tasked with inspecting police stations and monitoring the provision by the police of all fundamental safeguards against torture to persons deprived of their liberty, including prompt access to a lawyer;

(c) Steps taken to ensure that police keep accurate detention records, including in a centralized register, and on the use of closed-circuit monitoring of interrogation and detention rooms;

(d) Whether the State party is monitoring compliance with the fundamental legal safeguards; please also provide data on cases in which, during the period under review, officials were disciplined or prosecuted for failing to respect the rights of detainees.

3. In the light of the Committee's previous concluding observations (paras. 7–8) and the follow-up information provided by the State party, please provide updated information on:

(a) The outcome of the discussions conducted by the Department of Justice and Equality with the Irish Human Rights and Equality Commission, the Human Rights Implementation Centre and other stakeholders (CAT/C/IRL/CO/2/Add.1, paras. 4–9), which were expected to conclude in May 2018;

(b) Current prospects for the ratification of the Optional Protocol to the Convention by the State party 13 years after signing it, and on the establishment of a national preventive mechanism;

(c) Whether the existing bodies that have competence to monitor places of deprivation of liberty, such as the Inspector of Prisons, the Prison Visiting Committees, the Health Information and Quality Authority and the Inspector of Mental Health, have access to all places of detention, including Garda stations, residential care centres for people with disabilities, nursing homes for the elderly and other care settings; and on whether the Inspector of Prisons visited all prison establishments in Ireland during the period under review and published monitoring reports;

(d) Whether civil society organizations are also allowed to make unannounced visits to all places of deprivation of liberty, publish reports and have the State party act on their recommendations.

4. In the light of the Committee's previous concluding observations (paras. 31–32) and the follow-up information provided by the State party, please provide information on:

(a) Any proposed amendments to the Domestic Violence Act 2018 that would introduce a specific criminal offence of domestic violence that encompasses physical and psychological abuse committed within a relationship, and on any proposed amendments to the Act that would provide for an exception for those unable to afford the minimum contribution required for legal aid; please also provide information on the follow-up given to the report *Unheard and Uncounted: Women, Domestic Abuse and the Irish Criminal Justice System*, published by Women's Aid in 2019;

(b) Whether sufficient State funding has been ensured for domestic and gender-based violence services to cover all victims of such offences, including with regard to establishing multi-agency domestic homicide reviews, enabling victims to have access to medical and legal services, counselling, safe emergency accommodation and shelters, and to redress, and ensuring non-victimization through the criminal law system; please also provide information on any steps taken to collect and analyse data regarding police responses to domestic, sexual and gender-based violence, including with regard to the timeliness of those responses;

(c) The status of the appeal before the Supreme Court to challenge the result of the referendum held on 25 May 2018, in which 66.4 per cent of votes were cast in favour of the Thirty-sixth Amendment of the Constitution Bill, on the expansion of grounds for the legal termination of pregnancy, repealing the eighth amendment of the Constitution (on art.

40.3.3). Please also provide updated information regarding the implementation of the Health (Regulation of Termination of Pregnancy) Act 2018 (CAT/C/IRL/CO/2/Add.1, paras. 34–38);

(d) The evaluation of the implementation to date of the Second National Strategy on Domestic, Sexual and Gender-based Violence 2016–2021, including progress in gathering data on the extent and prevalence of such violence since the State’s Central Statistics Office was charged with undertaking the development and delivery of a new national survey and in light of alleged underreporting of domestic violence offences and information from the Garda Síochána that sexual offences have been increasing since 2015. Please also provide information on any steps taken in implementing the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention), in particular articles 60 and 61.

Article 3

5. In light of the Committee’s previous concluding observations (paras. 11–12) and the follow-up information provided by the State party, please provide information on:

(a) Whether asylum seekers continue to be detained; on whether the State party has opened a dedicated immigration detention centre at Dublin airport; on any changes in reception conditions after the opting-in by the Government, with effect from 30 June 2018, to Directive 2013/33/EU of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast) (CAT/C/IRL/CO/2/Add.1, para. 43); and on whether more facilities, such as direct provision centres and emergency accommodation, that are appropriate for the status of such applicants have been established to ensure that asylum seekers are not held in prisons and police stations together with remand and convicted prisoners;

(b) Whether asylum seekers, including those who are refused leave to land, have effective access to legal aid and interpretation regarding international protection and are informed about their situation in a language they understand; the number and countries of origin of persons refused leave to land, and the point to which they were returned; and on the discretionary power of immigration officers to deny leave to enter under section 4 (3) of the Immigration Act 2004;

(c) Whether a formal system of early detection of indicators of vulnerability was established within a vulnerability-screening mechanism for torture victims and other persons with special needs during the period under review in order to ensure that such persons are able to receive appropriate care and avoid retraumatization during international protection procedures;

(d) Whether adequate funding has been secured to provide all persons undergoing the single procedure under the International Protection Act with timely access to medico-legal documentation of torture, on whether training has been provided to personnel working with asylum seekers with special needs and on whether all refugees who have been tortured have access to specialized rehabilitation services countrywide;

(e) Whether a procedure has been established to determine the status of stateless persons and facilitate their access to effective remedies and rights;

(f) The number of refoulements, extraditions and expulsions carried out during the reporting period, including those carried out on the basis of the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances in which the State party has offered such diplomatic assurances or guarantees.

Articles 5–9

6. Please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention. Please inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties. Please indicate what measures have been adopted by the State party to comply with its obligation to extradite or prosecute (*aut dedere aut judicare*). Please clarify what treaties

or agreements on mutual legal and judicial assistance the State party has entered into, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

Article 10

7. Please provide information on whether:

(a) Training on the provisions of the Convention and the absolute prohibition of torture, as well as on non-coercive interrogation methods, has been made mandatory for all public officials, in particular police and prison staff and members of the Defence Forces, as well as all other officials coming into contact with persons deprived of their liberty;

(b) Police and other law enforcement officials, social workers, lawyers, prosecutors, judges and other public officials dealing with victims of gender-based violence, including domestic and sexual violence, are provided with mandatory training on gender-based and domestic violence; and whether the continuous professional development training of the Irish Prison Service includes mandatory training in gender-based violence;

(c) Compulsory training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) is provided to medical personnel and other law enforcement and judiciary officials who deal with detainees and asylum seekers and are involved in the investigation and documentation of cases of torture; please also indicate how many participants received such training;

(d) Any methodologies have been developed to assess the effectiveness of the training provided to relevant public officials and its impact on the reduction of the incidence of torture.

Article 11

8. With reference to the Committee's previous concluding observations (paras. 15–16), please provide information on:

(a) Specific measures taken by the State party during the period under review to further decrease the prison population and overcrowding, including in the Dóchas centre for female prisoners in Mountjoy prison, and in particular with regard to the situation of women with disabilities, as well as in the male and female wards of Limerick prison. Please also explain the reported rise in the number of female prisoners;

(b) Steps taken to ensure the separation of remand prisoners from convicted prisoners, on any increase in the use of non-custodial measures and alternatives to imprisonment during the period under review, and on the number of remand prisoners and how long they stay on remand; in addition, please provide information about any follow-up conducted regarding the suicide in October 2019 of a female prisoner in Dóchas centre who had been remanded as she had failed to pay 100 euros for bail;

(c) Steps taken to improve the material conditions of detention, in particular with regard to in-cell sanitation facilities, including ensuring privacy in the use of toilet facilities and their separation from places where prisoners take their meals;

(d) The status of implementation and any evaluation of the Irish Prison Service Strategic Plan 2016–2018, with specific information on which existing facilities have been refurbished and modernized, such as Limerick Prison and "Block E" of Portlaoise Prison, and on any new facilities built during the period under review;

(e) Specific steps taken to increase the ratio of guards to prisoners and on the introduction of a cell-share risk assessment tool across the prison estate to ensure that prisoners requiring protection are not penalized by their situation; please also indicate whether prisoners continue to be handcuffed when transferred between facilities and during external medical examinations;

(f) Steps taken during the reporting period to review the entire prison health-care system, to eliminate the deficiencies in the provision of health-care services, in particular

after the appointment in July 2018 of the Executive Clinical Lead for health care in the Irish Prison Service, to address the shortage of qualified medical and psychiatric staff and psychologists and to facilitate the referral of inmates requiring specialized medical care to outside medical facilities without delays attributable to a lack of escorts from among the prison staff and administrative reasons; please also provide information on measures relating to the referral of prisoners suffering from severe psychosocial disabilities to the Central Mental Hospital, where such prisoners are reported to sleep on the floor owing to acute lack of space, and information on the new forensic mental health facility and its capacity and services;

(g) The regime applicable to solitary confinement, including the maximum and average duration, on whether it could be applied to juveniles and persons with disabilities, and on whether or not the duration is recorded in each case;

(h) Whether steps have been taken to reduce the use of solitary confinement, to establish clear and specific criteria for its use, to strictly prohibit its use as prolonged and consecutive disciplinary sanctions, to place it under strict supervision and judicial review and to never apply it to juveniles; please also provide information on the reported 23-hour lock-up of prisoners with psychiatric needs and the reported high proportion of young prisoners on protection in Wheatfield Prison.

9. In light of the Committee's previous concluding observations (paras. 17–18), please provide information on:

(a) Specific measures taken to prevent and reduce inter-prisoner violence, including gang and sexual violence, among both male and female prisoners, as well as assaults on prison staff; please also indicate whether prisoners held in the National Violence Reduction Unit of Midlands Prison have access to regular family visits;

(b) The results of any inquiries into acts of violence committed in prison facilities and detention centres, including in relation to the violent incidents that took place in the Oberstown detention centre for juveniles in 2016 and 2017 and to the death of Gary Douch;

(c) Measures taken to train prison staff and medical personnel on communicating with and managing inmates, including juveniles and persons with intellectual and psychosocial disabilities, on detecting signs of vulnerability and disciplinary issues, and on the strengthening of existing and development of new educational and rehabilitation programmes aimed at encouraging prosocial behaviour.

Articles 12–14

10. In light of the Committee's previous concluding observations (paras. 19–20) and the follow-up information provided by the State party, please provide updated information on:

(a) The work of the Commission on the Future of Policing in Ireland (CAT/C/IRL/CO/2/Add.1, para. 10), including discussions with the Department of Justice and Equality; on the results contained in the report of the Commission that was due in September 2018; and on any changes to the legislative framework that would further enhance the independence of the Garda Síochána Ombudsman Commission and would put an end to the "leaseback" practice whereby the police investigates itself;

(b) The number of complaints filed with the Garda Síochána Ombudsman Commission relating to torture or ill-treatment and on their final outcomes; and on steps taken to sensitize the public about the existence and functioning of the Commission;

(c) Whether victims of acts of violence and ill-treatment have access to effective remedies and reparation, including means of rehabilitation, ordered by the courts and actually provided to victims of torture or their families. Please indicate the number of requests for compensation made, the number granted and the amounts ordered and actually provided.

11. With reference to the Committee's previous concluding observations (paras. 21–22), please provide information on:

(a) Whether the complaints model with four separate categories (A to D) continues to be used in the Irish Prison Service Complaints Policy, on whether the deficiencies in the system and delays in dealing with cases were overcome during the period under review, and on any steps taken to enhance the independence of the Inspector of Prisons;

(b) Whether a completely independent mechanism for the consideration of prisoner complaints and a new individual complaints procedure were established during the period under review, with greater involvement and oversight by an independent body;

(c) Whether the confidence of prisoners in the complaints system has increased and on whether an independent appeal procedure outside of the prison system has been set up;

(d) The punishments for torture and ill-treatment imposed on the persons responsible for such acts based on the complaints that were upheld.

12. In light of the Committee's previous concluding observations (paras. 23–24), please provide information on:

(a) The results of the "sizeable number of investigations" into allegations of abuse at institutions, including reformatory and industrial schools, including in relation to the more than 15,000 persons who were provided with redress by the Residential Institutions Redress Board, and on steps taken to ensure that the participants in the redress scheme are aware that they are not "gagged" from cooperating with the Garda;

(b) Whether the State party continued to encourage the victims of criminal acts to come forward during the period under review; on whether comprehensive data on all criminal investigations undertaken by the Garda into allegations of abuse at institutions dealt with in the report of the Commission to Inquire into Child Abuse, known as the Ryan report, have been gathered; on whether the investigations have resulted in prosecutions and convictions; and on any sentences handed down to the perpetrators of the criminal acts;

(c) Whether the provision of funds that may be required for assistance to victims was stopped in 2019, on whether the redress scheme and Caranua, the State body responsible for providing assistance, were dissolved, as announced, and on whether the State party has found another way to continue to fulfil its obligation to ensure that victims of torture and ill-treatment obtain redress, including the means for as full a rehabilitation as possible.

13. In light of the Committee's previous concluding observations (paras. 25–26) and the follow-up information provided by the State party, please provide updated information on:

(a) The application of the redress scheme applying to women who worked in a Magdalen laundry but were resident in one of the 14 adjoining institutions, pursuant to the November 2017 report issued by the Ombudsman on the administration of the scheme, on the approval by the Government of the proposals for the implementation of the Ombudsman's recommendations, including those made pursuant to the scoping review carried out by the Inter-Departmental Committee;

(b) The number of women who received a general payment for the entire period of residency in an adjoining institution and a "work" payment for the specific period of time worked in a Magdalen laundry (CAT/C/IRL/CO/2/Add.1, para. 12), and on the amounts paid, including to those who may reside outside Ireland;

(c) Any civil actions initiated during the period under review by victims of ill-treatment, including those who participated in the redress scheme upon receipt of records from religious congregations who ran the institutions;

(d) Services provided by the Restorative Justice Unit of the Department of Justice and Equality to the women who had worked in the Magdalen laundries, pursuant to the recommendation contained in Justice John Quirke's report.

14. With reference to the Committee's previous concluding observations (paras. 27–28), please provide updated information on:

(a) Whether the mandate of the Commission of Investigation into Mother and Baby Homes, established in February 2015, has been extended to all institutions in the country at which abuses, including forced and illegal adoptions, that constitute violations of the Convention may have occurred; on the results of the Commission's work, which was expected to be concluded in February 2018; on whether the archives of the Commission remain open to the public; on any progress made since the establishment of the Mother and Baby Homes Collaborative Forum in July 2018; and on whether any allegations of abuse and torture in mother and baby homes have been investigated;

(b) Any investigations into allegations of ill-treatment, including forced adoptions, amounting to violations of the Convention at mother and baby homes and analogous institutions throughout the country; on whether any of the perpetrators of violations were prosecuted and punished; and on whether any victims of violations of the Convention obtained redress during the period under review;

(c) Whether information concerning abuses in mother and baby homes and analogous institutions has been made accessible to the public to the greatest extent possible.

Article 16

15. With reference to the Committee's previous concluding observations (paras. 29–30), please provide updated information on whether survivors of symphysiotomy were able to obtain redress, including compensation and rehabilitation, and as determined on an individual basis, during the period under review. Please indicate whether any specific action has been taken to rectify the shortcomings of the report on symphysiotomy in Ireland (1944–1984), known as the Walsh report. Please also provide information on any investigations and criminal proceedings initiated against perpetrators of violations of the Convention relating to symphysiotomy during the period under review, in particular against doctors who had declined, for religious rather than medical reasons, to perform alternative procedures that would have caused substantially less pain and suffering. In addition, please confirm whether survivors of symphysiotomy who received a government payment were required, as a condition of payment, to abrogate their right to take action against both private and public actors.

16. With reference to the Committee's previous concluding observations (paras. 35–36), please provide updated information on:

(a) Measures taken by the State party to repeal the Lunacy Regulations (Ireland) Act 1871, in particular with regard to the wardship system, which reportedly lacks safeguards and due process and under which more than 3,000 adults are currently reported to be wards of the Court;

(b) Specific steps taken during the period under review to prioritize the commencement of the Assisted Decision-Making (Capacity) Act 2015, to provide adequate resources for its implementation and to ensure that the capacity of persons who are presently deemed wards of the court is reviewed under the new legislation and that persons undergoing such reviews are entitled to legal aid; and on any steps taken to shift the care model from a caretaker paradigm that encourages compliance and obedience rather than assertiveness to a support paradigm;

(c) Steps taken to ensure the enactment of the Inspection of Places of Detention Bill so that the State party can ratify the Optional Protocol to the Convention, and to ensure that the Bill provides for independent monitoring, by a national preventive mechanism, of residential and congregated care centres for older persons and persons with disabilities, in particular those with intellectual disabilities, and of all other institutionalized settings, including nursing homes and prisons, in which persons with disabilities may be placed and may not be able to leave; on whether people residing in such facilities can submit complaints, including regarding clinical judgments, to independent monitors; on whether persons alleged to have committed acts of ill-treatment, including improper use of chemical restraints, in residential care settings were investigated and prosecuted during the period under review; and on any redress provided to the victims;

(d) Whether institutions for persons with disabilities associated with religious institutions continue to be free from inspection of standards or practices; on whether persons subjected to safeguarding continue to be effectively denied opportunities for redress; and on steps taken pursuant to the publication by the Law Reform Commission of Ireland, on 29 January 2020, of an issues paper entitled “A regulatory framework for adult safeguarding”;

(e) On any monitoring done to date within the framework of the National Disability Inclusion Strategy (2017–2021), in light of the entry into force in the State party, on 19 April 2018, of the Convention on the Rights of Persons with Disabilities (CAT/C/IRL/CO/2/Add.1, para. 47); and on the commencement of the Mental Health (Amendment) Act 2018, which amends the definition of “voluntary patient”.

17. With reference to the Committee’s previous concluding observations (paras. 33–34), please provide updated information on any prosecutions of perpetrators violating the legislation criminalizing the removal of a girl from Ireland for the purpose of female genital mutilation during the period under review; and on any steps taken to amend the double criminality requirement in its domestic legislation.

Other issues

18. Please provide updated information on the measures taken by the State party to respond to threats of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State party has ensured that those measures are compatible with all its obligations under international law, especially the Convention. Furthermore, please indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subjected to antiterrorism measures; and whether there have been complaints of the non-observance of international standards in applying measures to combat terrorism and, if so, what the outcome was.

19. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the coronavirus disease (COVID-19) pandemic to ensure that its policies and actions comply with its obligations under the Convention. In addition, please specify the measures taken in relation to persons deprived of their liberty and in other situations of confinement, such as in homes for the elderly, hospitals or institutions for persons with intellectual and psychosocial disabilities.

General information on other measures and developments relating to the implementation of the Convention in the State party

20. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken to implement the provisions of the Convention or the Committee’s recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and provide statistical data. Please also provide any other information that the State party considers relevant.
