



International Covenant on Civil and Political Rights

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Human Rights Committee

Consideration of reports submitted by States parties under article 40 of the Covenant

Ireland*

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

[21 December 2010]

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

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

“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 provided information to the Committee on the relevant paragraphs of the Committee’s concluding observations on 30 July 2009. Ireland is pleased to provide the information in this document for the information of the Committee, following further requests from the Committee on 4 January 2010 and 28 September 2010 to provide additional information on the implementation of paragraph 11, in particular on:

(a) How and how often terrorist acts have been investigated and prosecuted, including information on the length of pretrial detention and access to a lawyer in practice (paragraph 11);

(b) The safeguards in place when relying on official assurances;

(c) The mandate of, and the work carried out by, the Cabinet Committee on Aspects of International Human Rights in relation to monitoring traffic through Irish airports (para. 11).

3. The information below is being submitted in two parts, the first of which concerns a response also in two parts on pretrial detention and data available on visits of legal representatives, and the second of which provides updated material on renditions, powers of search and arrest and Garda (national police service) training.

Response of the State party to requests to provide additional information on the implementation of paragraph 11 of the concluding observations of the Committee

The length of pretrial detention

4. Of the “subversive prisoners” in custody on 9 November 2010, the average time spent in custody prior to sentencing was 139 days.

Data available on visits of legal representatives to this cohort of prisoners

5. Please see below sections 38 and 35(6) of the Prison Rules, 2007, which address the legal visits aspect of your query.

“Prison Rules, 2007 - Section 38

“Visit by legal adviser or relating to court appearance

“38. (i) A prisoner shall be entitled to receive a visit from his or her legal adviser at any reasonable time for the purposes of consulting in relation to any matter of a legal nature in respect of which the prisoner has a direct interest, and any such visit shall take place within the view of, but out of the hearing of a prison officer.

“(ii) A prisoner may, at the discretion of the Governor receive a visit at any reasonable time from a legal adviser or from any other person approved of by that legal adviser who is assisting in making preparations on behalf of a party to proceedings before the courts whether criminal or civil in nature, and such a visit shall take place,

- (a) within the view, and
 - (b) except where the prisoner or visitor requests otherwise, out of the hearing, of a prison officer.
- “(iii) Where, in relation to a visit under paragraph (1) or (2), the prisoner requests the attendance of an interpreter, the Governor may allow such attendance where the lack of such services during such visit would cause the prisoner substantial difficulty in communicating with the person visiting.
- “(iv) Paragraph (6) of Rule 35 (Ordinary visit) shall apply to a visit under this Rule.”

“Ordinary visit

“35. (6) A prisoner who is entitled under this Rule to receive a visit may request the Governor to notify or cause to be notified those persons from whom the prisoner wishes to receive a visit, and the Governor shall do so, in so far as is practicable, and subject to the maintenance of good order and safe and secure custody.”

Response to request for additional information regarding the Cabinet Sub-Committee on Aspects of International Human Rights

6. The Renewed Programme for Government agreed between the Government parties in October 2009 contains the following commitments under the heading of Ireland’s International Role:

“International Human Rights

- We will further develop systems to ensure that the highest international standards are applied to Ireland’s approach to human rights, working through the Cabinet Sub-Committee on International Human Rights.”

“Renditions

- We will review and change if necessary the legislation affecting civilian aircraft in the context of the existing and ongoing work of the Cabinet Sub Committee on Human Rights and will, as is appropriate, strengthen the powers of inspection of such aircraft and the collection of flight information.”

7. The Cabinet Sub-Committee on Aspects of International Human Rights has met on three occasions since its establishment in 2008 and received reports on the following matters.

8. With regard to the power to enter and search an aircraft, there are statutory provisions governing the exercise of such a power. The Air Navigation and Transport Acts provide a power to enter an aircraft to make an arrest. This power can only be exercised where a Garda officer knows or reasonably suspects that a person has committed an offence. Other legislative provisions containing a power of arrest also require the Garda to have a “reasonable cause” before effecting an arrest. The Criminal Justice (Miscellaneous Provisions) Act 1997 provides authority for the Gardaí to seek a warrant (from a judge of the District Court) to search any place, including an aircraft, where there are “reasonable grounds” for suspecting that evidence of or relating to the commission of an arrestable

offence¹ is to be found at that place. There is no legislative basis to permit random or routine entry to or search of civilian aircraft for the purpose of the detection of any offence.

9. Regarding Garda training on aspects of human rights, including the protection and dignity of all persons within or passing through the State, there are a number of modules to student/probationer Garda training which form part of the programme leading to their graduation from the Garda College. Furthermore, all promotion and management development training programmes include specific modules directly related to human rights.

10. Specific human rights training is given to officers working in certain specialist areas, including the Garda National Immigration Bureau and Immigration Officers in Garda stations.

11. Specialist Garda search teams operate in all Garda Divisions. Where a Garda Division includes an airport, the team receives additional training regarding searching of aircraft. These search techniques are regularly reviewed and updated as appropriate.

12. Where complaints have been made to the Gardaí regarding particular flights, including allegations of renditions, investigations have ensued. None of these investigations has disclosed evidence of criminal acts in this jurisdiction. No evidence of rendition of prisoners was disclosed.

13. In relation to official assurances, the assurances Ireland has received in relation to allegations of extraordinary rendition are of a clear and categoric nature, relating to facts and circumstances within the full control of the United States Government and were made at the highest level. If any evidence were to emerge that the assurances are not being complied with, we, the Irish Government, would deal immediately with the situation.

¹ An arrestable offence means an offence for which a person of full capacity and not previously convicted may, under or by virtue of any enactment, be punished by imprisonment for a term of five years or by a more severe penalty and includes an attempt to commit any such offence (Criminal Law Act 1997).