



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

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English only

Committee against Torture

**Concluding observations on the initial report of Ireland,
adopted by the Committee at its forty-sixth session (9 May-3
June 2011)**

Addendum

**Information received from Ireland on the implementation of
the Committee's concluding observations
(CAT/C/IRL/CO/1)***

[31 July 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been edited.

Response to recommendations 8, 20, 21 and 25 as requested by the Committee against Torture in its concluding observations (CAT/C/IRL/CO/1) during its forty-sixth session (9 May – 3 June 2011)

Reduction of financial resources for human rights institutions

Reply to the recommendations contained in paragraph 8 of the concluding observations (CAT/C/IRL/CO/1)

1. Following on from the Government decision in October 2011 to amalgamate the Human Rights Commission (HRC) and the Equality Authority (EA), the Minister for Justice and Equality established a Working Group drawn primarily, from the boards of the two bodies, to advise him on practical issues in relation to implementation of the decision, including on the powers and functions for the new Irish Human Rights and Equality Commission (IHREC).
2. The Working Group, which reported on 19 April 2012, was very conscious of the need to ensure that IHREC has a wide mandate in line with the Paris Principles, and a set of powers and functions and adequate resources, including staff resources, to enable it to fulfil that mandate effectively and made recommendations under 42 separate headings to that end.
3. A draft General Scheme - based on the Working Group's recommendations - of the legislation necessary to effect the merger was published on the 5 June 2012. The Minister for Justice and Equality requested that the Oireachtas Committee, of the Irish Parliament, on Justice, Defence and Equality examine the Heads of the Bill and to undertake a further focused consultation process with civil society and other interested parties on the content of the General Scheme. The intention is to ensure that the legislation is enacted during 2012 and that the IHREC comes into being as soon as possible.
4. The Working Group strongly drew attention to the need to ensure that the new Commission's funding is adequate to allow it to fulfil its mandate and tasks, and this will fall to be addressed in the context of the 2013 Budget.
5. As indicated by the Minister at the time of the original announcement of the amalgamation, the intention is that the IHREC will report directly to the Oireachtas. This will include submitting its Strategic Plan and Annual Report directly to the Oireachtas.

Follow-up to the Ryan Report

Reply to the recommendations contained in paragraph 20 of the concluding observations

Implementation of recommendations of CICA and timeframe

6. The Government accepted all the recommendations of the Ryan Report and published its Implementation Plan in July 2009. The overall aim of the Implementation Plan is to make a difference in children's lives by addressing past failings and putting measures in place to achieve better outcomes in the delivery of services to children and families. This Plan set out 99 actions to address each of the 20 recommendations in the Ryan Report, and include proposals considered essential to further improve services to children in care, in detention and at risk. The actions can be grouped into six categories as follows:

- Addressing the effects of past abuse;
- Developing and strengthening national child care policy and evaluating its implementation;
- Strengthening the regulation and inspection function;
- Improving the management of children's services;
- Giving greater effect to the voice of the child;
- Revising Children First, the national guidance on the protection and welfare of children and underpinning the guidance by way of legislation.

7. Implementation of the Plan is overseen by a high level group chaired by the Minister for Children and Youth Affairs. The Group includes representatives from the Department of Children and Youth Affairs, the Health Service Executive, the Health Information and Quality Authority, the Irish Youth Justice Service, the Department of Education and Skills and An Garda Síochána. A progress report is presented to Government each year and this report is subsequently laid before both Houses of the Oireachtas.

8. The Second Progress Report on the Implementation Plan was laid before the Houses of the Oireachtas by the Minister for Children and Youth Affairs in July 2011. This Second Progress Report, which comprehensively details the progress on all 99 actions and the associated timelines for implementation, can be accessed at the following web address http://www.dca.gov.ie/documents/publications/Ryan_Final.pdf.

Independent investigations

9. Following the publication of the Ryan Report and the Report of the Commission into the Investigation of the Dublin Archdiocese, the Garda Commissioner arranged for a review of An Garda Síochána policy on the investigation of sexual crimes, crimes against children and child welfare. Arising from this review a comprehensive policy document was developed (April 2010), the aim of which is to combine professionalism with sensitivity and compassion in the investigation of sexual crimes.

10. The Garda Policing Plan for 2012 puts a particular emphasis on tackling sexual crime and crime against children as well as proactive co-operation with all relevant Departments, organisations and agencies to improve the safety of children. An Garda Síochána has made it clear that the Children First National Guidance (2011) is adopted as Garda policy and that interacting with HSE Children and Family Services regarding all investigations of child abuse is an integral part of Garda policy.

11. A Strategic Committee has also been established within An Garda Síochána, chaired at Assistant Commissioner level, to liaise with the HSE's National Director of Children and Family Services, to ensure that all matters of strategy and policy in the field of interagency working received the proper direction.

12. Furthermore, a Sexual Crime Management Unit has also been established within the Garda Domestic Violence and Sexual Assault Investigation Unit. The Management Unit is responsible for evaluating and monitoring the number of investigations each year into child sexual abuse, child neglect and other sexual offences, to ensure that they are receiving appropriate attention; advising on the investigation of such crimes; and promoting best investigative practice.

13. Insofar as the bringing of prosecutions on foot of the abuse disclosed in the Ryan report is concerned, An Garda Síochána note that when they conducted their review of the Ryan Report, disclosure of the names of persons referred to in the Report was not permitted further to the provisions of the Commission to Inquire into Child Abuse Act, 2000.

14. However, following publication of that Report, An Garda Síochána established a dedicated phone line for persons who wished to provide information relating to criminal behaviour connected with what the report revealed. As of 29 May, 2012, 181 calls have been received on the Garda helpline. An Garda Síochána carried out investigations and submitted fifteen investigation files to the Director of Public Prosecutions (DPP). The DPP directed no prosecution in the case of fourteen of them. The DPP directed a prosecution in one case which is currently before the courts. One additional investigation is nearing completion and will be the subject of submissions to the DPP.

Residential Institutions Redress Board

15. The Residential Institutions Redress Board was established in December 2002 pursuant to the Residential Institutions Redress Act, 2002 to make 2002 to provide fair and reasonable financial awards to victims of institutional childhood abuse. The Board is wholly independent in the performance of its functions.

16. To qualify for an award, an applicant must prove his/her identity and establish to the Board's satisfaction that he/she was resident in a specified institution while under 18 and that he/she was injured while so resident and the injury is consistent with any abuse that is alleged to have occurred while so resident.

17. By the end of March 2012, the Redress Board had received a total of 15,576 applications and had finalised 14,980 cases. Of these, 14,038 have resulted in awards, with the remaining 942 either being refused, withdrawn or resulting in no award. Applicants to the Redress Board are entitled to independent legal advice and the overwhelming majority of applicants (97.5 per cent) availed of such advice.

18. Awards are made in accordance with the framework proposed by the independent Compensation Advisory Committee which advised on the appropriate levels of compensation for injuries related to childhood abuse and was published in January 2002. The average value of awards made to end March 2012 is €62,850. The overall expenditure on the scheme is expected to be some €1.2bn.

19. The original closing date for receipt of applications was 15 December, 2005, i.e. three years following the establishment of the Board. However, section 8 of the Act allows the Redress Board to extend the period for receipt of an application in exceptional circumstances and requires it to extend the period when it is satisfied that an applicant was under a legal disability. The Residential Institutions (Amendment) Act, 2011 removed the Board's power to consider applications made on or after 17 September, 2011. A total of 2,766 late submissions were received by this time. Of these 1,136 have been allowed, 214 have been disallowed, 160 have been withdrawn, files closed or deemed invalid and the Board has a further 1,256 to adjudicate on.

Support and rehabilitation for former residents

20. A range of other measures have been put in place to support victims of institutional abuse, including:

- The provision of counselling services through the National Counselling Service. Established in 2000, this is a professional, confidential counselling and psychotherapy service available free of charge in all HSE areas. The service is available to all adults who have experienced trauma and abuse in childhood, with priority given to adult survivors of past institutional abuse in Ireland;
- The establishment of the *Origins* family tracing service, which is a dedicated and customised service for former residents wishing to trace family members with whom they have lost contact. This service is operated by Barnardos and by end March 2012 a total of 1,156 tracing cases had been completed; and

- The establishment of the Education Finance Board with a Fund of €12.7m to provide grants to former residents and their families to avail of educational services.

Proposed Residential Institutions Statutory Fund

21. The Government has proposed to establish a Statutory Fund to support the needs of survivors of residential institutional abuse. The Fund will be financed from the €110m contributions offered by the congregations that ran many of the institutions. It will fund the provision of counselling, health, education, housing and other services for victims of abuse in residential institutions. The Residential Institutions Statutory Fund Bill 2012, providing the legislative basis for the establishment of the Fund, was published in April 2012 and is currently before Dáil Éireann. The Fund will be established following the enactment of the legislation.

Magdalene Laundries

Reply to the recommendations contained in paragraph 21 of the concluding observations

22. The State fully accepts that specific complaints of torture and other criminal acts should be the subject of investigation with a view in appropriate cases to the prosecution and punishment of the perpetrators. Acts constituting torture and other such behaviour do constitute criminal offences and are not subject to any statute of limitations. Individuals and groups alleging criminal wrongdoing in Magdalen laundries have been consistently advised that if they have any evidence of criminal offences having been committed, they should report the matter to the police for criminal investigation and where appropriate prosecution.

23. In addition any person may initiate a civil action before the courts seeking recompense for any wrongdoing they have suffered. More generally the State is conscious of the historical nature of these institutions and the allegations made and the fact that they were private, religious institutions. As a result basic facts about their operations are not in the public domain. The Government has established a committee chaired by independent Senator McAleese to establish the facts of State involvement. All Government agencies are obliged to give full cooperation to the committee. The interim report submitted by Senator McAleese indicates that the four religious orders concerned have offered their full assistance and the committee has engaged with all groups representing or advocating on behalf of those who were in the Magdalen institutions. The final report of this committee is expected to be presented in mid 2012 and it will be made public. The Government will decide what further action is appropriate when it has received and considered that report.

Prohibition of female genital mutilation

Reply to the recommendations contained in paragraph 25 of the concluding observations

24. On 2 April the President signed into law the Criminal Justice (Female Genital Mutilation) Act 2011.

25. This Act explicitly prohibits female genital mutilation (FGM) along with related offences - some of which apply to certain extraterritorial jurisdictions. The Act also creates an innovative offence of removal from the State of a girl for the purpose of FGM. The legislation takes a human rights perspective and stipulates that the right to practice one's cultural traditions and beliefs cannot be used to justify FGM, which has been internationally recognised as a form of gender-based violence. A defence of custom or

ritual in proceedings is not permitted; neither is a defence that the girl/woman or her parents/guardian consented to FGM. Punishment is up to 14 years imprisonment and/or a fine; for a summary conviction, the penalty is a fine of up to €5,000 and/or imprisonment for up to 12 months or both.

26. The Health Service Executive (HSE) is planning to print information leaflets on the new legislation. It is also planned that the prevention of FGM and the care of women who have already undergone the procedure will be included in the HSE Service Plan for next year as a Key Result Area and this would allow for the development of a Key Performance Indicator in subsequent year.

27. The HSE's latest initiative in this field is the introduction of National Maternity Healthcare Record this year. This new form will be used for all women booking for maternity care and includes for the first time at a national level FGM as a risk factor for obstetric care.

28. When FGM meets the definition of torture, that is if it is carried out by or with the acquiescence of public officials, then it is an offence under the Criminal Justice (United Nations Convention against Torture) Act 2000.
