



association pour la prévention de la torture
asociación para la prevención de la tortura
association for the prevention of torture

UN Committee against Torture 50th Session (6 to 31 May 2013)

APT submission on Ireland

Submission from the Association for the Prevention of Torture (APT) to the Committee against Torture providing background information and suggested questions on the Optional Protocol to the UN Convention against Torture (OPCAT) for Ireland, whose List of Issues Prior to Reporting (LOIPR) will be adopted by the Committee during its 50th session in Geneva.

Submitted 22 February 2013

The Association for the Prevention of Torture (APT) is an independent NGO based in Geneva, working globally to prevent torture and other ill-treatment. To achieve this vision the organisation works within three integrated areas:

Transparency in places of detention - Promoting a system of visits by independent experts to prisons and other places where people are held in detention.

Effective laws and policies - Lobbying with governments to ratify the Optional Protocol to the UN Convention against Torture and other international and regional anti-torture treaties.

Capacity for prevention - Creating partnerships for prevention within countries, bringing governments, police services, judges and lawyers, national human rights institutions and civil society together in the fight against torture.

1. Key facts

OPCAT Signature: 2 October 2007

NPM: under consideration

2. Background information relating to the institution of a National Preventive Mechanism (NPM)

Despite repeated recommendations at the international level for Ireland to ratify the Optional Protocol to the UN Convention against Torture (OPCAT), progress has so far been relatively slow in this regard. Only now, nearly two years after the UN Committee's examination of Ireland's initial report in May 2011, can some limited developments be seen in this connection at the national level.

In his opening statement to the Committee on 23 May 2011, Sean Aylward, the Head of the Irish Delegation to the UN Committee against Torture, stated the following:

Mr Chairman ... Ireland is committed to the ratification of the Optional Protocol to the Convention against Torture. Legislation will, however, be required prior to the ratification in order for the National Preventive Mechanism required by the Optional Protocol to be designated.

I am pleased to announce today that the Irish Government approved the preparation of legislation to ratify the Optional Protocol on Tuesday last (18th of May 2011). And while it is not possible, at this present time, to provide an indicative date for the enactment of the legislation every effort will be made to progress the passage of the legislation as quickly as possible. In keeping with Ireland's policy of continuous constructive dialogue with civil society, there will be a consultation process during the development of legislative proposals to enable the views of interested parties to be articulated and considered.¹

The Committee against Torture subsequently recommended in its Concluding Observations that Ireland "[e]xpeditely the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the establishment of a national preventive mechanism."²

Later the same year, in October 2011, during Ireland's Universal Periodic Review by the UN Human Rights Council the recommendation that Ireland ratify the OPCAT was made by several country delegations. Encouragingly, this important recommendation was subsequently examined and enjoyed the support of Ireland.³

Regrettably, it appeared that few concrete measures were undertaken by the Irish authorities to ratify the OPCAT in 2012. One key moment, however, was an initiative undertaken by the NGOs, the Irish Penal Reform Trust and the Irish Council for Civil Liberties to organize a half-day round-table meeting on this issue in Dublin on 15

¹ Opening Statement of Sean Aylward, Head of the Irish Delegation to the UN Committee against Torture, distributed by the Irish delegation in Geneva on 23 May 2011.

² See UN Doc. CAT/C/ITL/CO/1, 17 June 2011 – paragraph 11(c).

³ See UN Doc. A/HRC/19/9, 21 December 2011 – paragraph 106.2.

February 2012 titled 'New Arrangements for the Monitoring of Places of Detention in Ireland: The Optional Protocol to the United Nations Convention against Torture (OPCAT)'.⁴ During the February 2012 meeting the participants were informed that the Department of Justice and Equality was developing a 'general scheme' document for the future consultation on how the OPCAT might be implemented in Ireland.

At the time of writing, this general scheme had yet to emerge, although the APT is informed that it may do so in the coming months in the form of a document which focuses on a number of oversight related issues.⁵ These may include the following: the implementation of the OPCAT; the placement of visits by the European Committee for the Prevention of Torture on a statutory footing; and the consolidation of the powers of two domestic monitoring bodies, the Office of the Inspector of Prisons and the Prison Visiting Committees. It is hoped that the general scheme will be published before summer 2013 and that it will result in an open, transparent and inclusive public consultation on the issue of OPCAT implementation, as required by the UN Subcommittee on the Prevention of Torture.⁶

Existing monitoring bodies

It should be noted that Ireland has various existing oversight and complaints-handling bodies, several of which were instituted in the first decade after the millennium, which could potentially play an NPM related role. These include, for example, the following institutions: Irish Human Rights Commission; Garda Síochána Ombudsman Commission; Garda Síochána Inspectorate; Office of the Ombudsman for Children; Children's Visiting Panels; Visits by judges to child detention centres; Office of the Inspector of Prisons; Prison Visiting Committees; Inspectorate of Mental Health Services; Office of the Chief Inspector of Social Services; and the Qualified Persons Health Executive.

Notwithstanding this multitude of bodies, all suffer from certain deficiencies OPCAT-wise, falling short of specific provisions highlighted in the OPCAT text (especially Articles 17-23). Moreover, most of the above institutions operate on quite limited resources, even more so in the current economic climate. The Office of the Inspector of Prisons, for example, has a mandate to cover 14 facilities spread throughout the country, some of them quite large, with a team of just around four or so persons. Similarly, the Irish Human Rights Commission currently has a sizeable number of vacant positions due to an embargo on public service recruitment and an absence of money for contracted positions. In sum, current public financing in Ireland remains very tight and this will no doubt have a bearing on future decisions to implement the OPCAT.

3. Suggested questions

In light of the background material above, the APT proposes that the Committee against Torture include the following questions in the List of Issues Prior to Reporting

⁴ This event was the most recent of three public events on the subject, in all of which the APT participated. The first had been organised by the Irish Council for Civil Liberties in September 2007, followed by another hosted by the Irish Human Rights Commission in May 2008.

⁵ According to information kindly provided by the Irish Penal Reform Trust on 19 February 2013.

⁶ See UN Doc. CAT/OP/12/5, 9 December 2012 – paragraph 16.

(LOIPR) for Ireland:

Articles 2 and 16

- Please provide information about the Department and Justice and Equality's general scheme aimed at, among other issues, implementing the OPCAT in Ireland;
- Please provide information about the envisaged public consultation in this same connection, explaining how it meets the UN Subcommittee on Prevention's requirements of openness, transparency and inclusiveness;
- Please provide information about any measures being undertaken to ensure that the future NPM is provided with the necessary material, logistical and human resources in order to ensure its effectiveness;
- Please provide information about how the activities of the future NPM will be coordinated if a multiple body mechanism is instituted in practice.