



IPRT Briefing on **Fines Bill 2009 (Report Stage)**

Irish Penal Reform Trust

The Irish Penal Reform Trust (IPRT) is Ireland's leading non-governmental organisation campaigning for the rights of everyone in the penal system, with prison as a last resort.

IPRT is committed to reducing imprisonment and the progressive reform of the penal system based on evidence-led policies. IPRT works to achieve its goals through research, raising awareness, building alliances and growing our organisation.

Introduction

IPRT is very concerned at the continuing rise in the number of people being imprisoned in Ireland for failure to pay fines: 3,366 people were imprisoned from January to the end of October 2009. This represents a jump of over 50% on the total figure for 2008.¹

The rise in imprisonment for fine default continues to persist despite the chronic overcrowding in Irish prisons, the high costs of imprisonment, and solid evidence that community service programmes are far more successful than custodial sentences in dealing with fine defaulters, over 85% of whom currently return to prison within 4 years.²

IPRT considers that in cases of non-payment of fines, Community Service Orders or other community-based sanctions should be used as a default sanction.

Fines Bill 2009

In this context, IPRT welcomes the introduction of the *Fines Bill 2009* which, when implemented, will go some way in alleviating the current situation resulting in the over-use of imprisonment in cases of non-payment of fines. IPRT urges the Oireachtas to complete the legislative process as a matter of priority to enable the Government and the Courts to introduce the appropriate system of management of fines as early as possible in 2010.

However, for the legislation to provide a system in which imprisonment is only ever used as a measure of last resort in relation to fine default, some changes still need to be introduced before it is enacted into law. These are outlined overleaf.

1 <http://www.irishtimes.com/newspaper/ireland/2009/1231/1224261476554.html>

2 Ian O'Donnell, Eric P. Baumer and Nicola Hughes (2008) 'Recidivism in the Republic of Ireland'. *Criminology and Criminal Justice*, 8 (2):123-146.

Detailed comments on Sections where amendments are needed:

1. Section 12(b) – where the aggregate value of all property (real and personal) is to be taken into consideration, the estimated value of real property in particular should be assessed together with the potential for sale in the prevailing real estate market.

2. Section 13(3) – now reads as though even after all the circumstances are taken into consideration and the Court decides the level of fine that would not have a detrimental effect on the situation of the defendant and his or her family/dependants, the Court may still impose a fine greater than what would be reasonable in the circumstances; this power should be limited to exceptional cases and an explanation of why such sanction was decided upon should be provided in Court.

3. Section 14 – IPRT generally welcomes the introduction of payment by installments; the limit of one year from the imposition of fine (two years on application) should, however, be made more flexible to enable Courts to take into consideration individual circumstances of the defendant.

4. Section 14(6) - currently reads as though there will be a possibility of imposing imprisonment for default on one installment only; for the Bill to make the principle of imprisonment as a last resort in cases of non-payment of fines a reality, reasons for default should be sought in the first instance; flexible system should allow for payment of that installment with the next one if financial circumstances of an individual are such that such flexibility would allow the payment of fine.

5. Section 14(7) - the limit (100 euro) below which a fine cannot be paid in installments should be removed.

6. Section 17 – this section should be made stronger by stating that the Court 'shall' (rather than 'may' as it currently stands) make an order for a Community Service Order (CSO) in cases of non-payment of fines. Imprisonment should be a sanction of a last resort; the Bill should therefore be amended to make a CSO a default sanction upon fine default. Sections **17(2)** and **17(3)** should be amended accordingly. The Bill, as currently drafted, states that the power to make a CSO is not impairing the power of the court to imprison upon default; this should be removed.

Further information

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