



IPRT Submission to the Human Rights Committee on Ireland's Fifth Periodic Examination under the International Covenant on Civil and Political Rights

Suggested List of Issues for Ireland

130th Session of the Human Rights Committee (12 October to 6 November 2020)

About IPRT

The Irish Penal Reform Trust (IPRT) is Ireland's leading non-governmental organisation campaigning for everyone's rights in the penal system and for the progressive reform of Irish penal policy. For 26 years, IPRT has been promoting policies that make communities safer, based on the evidence of what works to prevent and reduce offending and reoffending. Our vision is of a penal system that is just and humane; that protects and promotes human rights, equality, and social justice; and that only uses prison as a sanction of last resort.

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Introduction

The Irish Penal Reform Trust (IPRT) welcomes the opportunity to prepare this submission to inform the United Nations Human Rights Committee's (the Committee) List of Issues Prior to Reporting (LOIPR) for Ireland's fifth periodic review under the International Covenant on Civil and Political Rights. The submission highlights areas of concern related to prisoners and prison conditions in Ireland.

In 2014, IPRT submitted to the Human Rights Committee in advance of Ireland's fourth periodic examination under the ICCPR.¹ IPRT wishes to note three significant improvements since then:

- **The practice of sending children to adult prisons in Ireland ended in 2017²**
- **A decrease in the number of prisoners slopping out, from 11.7% in 2014³ to 1% in 2020⁴**
- **An overall decrease in committals to prison for fines default, from 9,883 in 2015 to 861 in 2019⁵**

Headline issues that we wish to bring to the attention of the Committee include:

- **Ireland has not ratified OPCAT nor established a National Preventive Mechanism (NPM)**
- **There has been no inspection report of a closed prison published since 2014**
- **Prisoners have no access to an independent complaints appeal mechanism**
- **People with severe mental illness continue to be detained in the Irish prison system**
- **Pre-trial detainees share cells with sentenced prisoners. For females, there is no separation of detainees awaiting trial, immigration detainees, and sentenced prisoners.**

This submission outlines the most pertinent issues under the relevant articles of the Covenant.

¹ IPRT (2014) *Submission to Human Rights Committee on Ireland's Fourth Periodic Examination of Ireland under the International Covenant on Civil and Political Rights*.

² Department of Justice and Equality, *Tánaiste announces closure of St. Patrick's Institution*, <http://www.justice.ie/en/JELR/Pages/PR17000117>

³ Irish Prison Service, *Annual Report 2017*, p.24 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-annualreport-2017.pdf

⁴ Irish Prison Service, *Census of Cell Occupancy and In-cell Sanitation April 2019 – Report*, <https://www.irishprisons.ie/information-centre/statistics-information/census-reports/>

⁵ See Irish Prison Service, *Annual Reports*, <https://www.irishprisons.ie/information-centre/publications/annual-reports/>

List of Issues for the Irish State – Prisoners and prison conditions in Ireland

Article 7: Right to freedom from torture or cruel, inhuman or degrading treatment or punishment

Covid-19 and Human Rights Implications

It is important to note at the outset the impact of Covid-19 restrictions on the prison population, with particular regard to: out-of-cell time, access to regimes and family contact.

“The CPT must stress that the ongoing crisis demonstrates the clear need to put human rights first, in decision-making in the context of the pandemic and beyond. Each measure taken by the authorities of member States should be based on a thorough assessment of its concrete implications for the human rights of all persons concerned. In short, respect for human rights should become a reflex for all officials.”⁶

The Committee may wish to ask the State:

- **How it is ensuring that measures taken in prisons during the Covid-19 pandemic are proportionate, necessary and subject to scrutiny.**

Article 6: Right to Life

1a. Investigations into deaths in prison custody

Since 2012, the Inspector of Prisons has conducted independent investigations into deaths occurring in prison custody. These investigations should be prompt and the reports made public to allow for public scrutiny with the goal of identifying and addressing any systemic issues in order to avoid any potential future deaths occurring. Currently, there are gaps of up to two years between a death occurring and the publication of the reports.⁷ In 2020, ‘Action Plans’ by the Irish Prison Service have been published in tandem with death in custody reports. IPRT welcomes this.

IPRT would like to draw the Committee's attention to some recurring issues identified across the Inspector's reports and media reports on deaths in custody:

- Findings from an inquest identified that ‘systems failures’ contributed to a man's death (2017) in Limerick prison. The man had spent five weeks in a psychiatric ward before his imprisonment. The Irish Prison Service accepted that adequate levels of medication were not provided to the man. The man had no previous record of being arrested prior to his imprisonment.⁸ As there was no available visit slot, the man had no visits during the period (29 April to 8 May 2017) he was held on remand in Limerick prison.⁹
- In 2019, a 33-year old woman died nine days after reportedly attempting to take her own life in the Dóchas centre (the main female prison in Ireland). The woman had been arrested

⁶ CPT/Inf (2020) 21 Follow-up statement regarding the situation of persons deprived of their liberty in the context of the ongoing COVID-19 pandemic, <https://rm.coe.int/16809ef566>

⁷ Office of the Inspector of Prisons, *Death in Custody-Report by Year of Publication*, <https://www.oip.ie/death-in-custody/death-in-custody-report-by-year-of-publication/>

⁸ Systems failure contributed to death of young man in Limerick prison, inquest hears, *The Irish Times*, <https://www.irishtimes.com/news/crime-and-law/courts/coroner-s-court/systems-failure-contributed-to-death-of-young-man-in-limerick-prison-inquest-hears-1.4092306>

⁹ Office of the Inspector of Prisons, *A report by the Office of Inspector of Prisons into the circumstances surrounding the death of Mr G on 6 May 2017 in Limerick prison*, <https://www.oip.ie/wp-content/uploads/2020/04/Report-into-the-death-of-Mr-G-2017.pdf>

for an alleged public order offence. She could not afford to pay the cash bail of €100. The woman attended a hospital emergency department and received medication before being transferred to prison. There are six separate investigations underway.¹⁰

In both cases, special observation checks (i.e., where people identified as being at risk of self-harm must be checked every 15 minutes in line with Standard Operating Procedures) were not carried out. As identified by the Inspector of Prisons in relation to the first case:

“It is noted in the circumstance of this case the Governor has stated that staff were unable to conduct 15 minute special observation checks due to other operational demands on the night – see paragraph 7.4. In such circumstance the Officer in charge of the division/landing should document the reason for non-compliance with Irish Prison Service policy and procedure at the first opportunity following his/her return to their post. All such entries should be counter-signed by the Supervising Officer (Assistant Chief Officer / Chief Officer, as appropriate or in their absence the person designated with that responsibility) when conducting his/her checks.”¹¹

While we note that investigations are ongoing into these and other recent cases¹², these are examples in which the State may have failed in its duty to prevent the deaths of people under its care. It also shows the vulnerability of people detained in the prison system.

The Committee may wish to ask the State:

- **For information on the implementation of recommendations contained in the Inspector of Prisons reports on investigations into deaths in custody**
- **For information on measures taken by the State to ensure that people with an acute mental health need are diverted and receive appropriate access to mental health services**

¹⁰ Investigations into death of mother who tried to take her life in jail, *The Irish Times*, <https://www.irishtimes.com/news/social-affairs/investigations-into-death-of-mother-who-tried-to-take-her-life-in-jail-1.4058152>

¹¹ Office of the Inspector of Prisons, *A report by the Office of Inspector of Prisons into the circumstances surrounding the death of Mr G on 6 May 2017 in Limerick prison*, <https://www.oip.ie/wp-content/uploads/2020/04/Report-into-the-death-of-Mr-G-2017.pdf>

¹² In November 2019, a man with a history of mental illness was strangled to death in his cell in Cloverhill prison. The Inspector of Prisons’ report on the investigation into the circumstances surrounding the death of this man has yet to be published. (Man strangled in Cloverhill Prison named as Mark Lawlor (37), *The Irish Times*, <https://www.irishtimes.com/news/crime-and-law/man-strangled-in-cloverhill-prison-named-as-mark-lawlor-37-1.4093509?mode=sample&auth-failed=1&pw-origin=https%3A%2F%2Fwww.irishtimes.com%2Fnews%2Fcrime-and-law%2Fman-strangled-in-cloverhill-prison-named-as-mark-lawlor-37-1.4093509#:~:text=A%20man%20strangled%20to%20death,of%20the%20west%20Dublin%20jail>). On 29 September 2020, the death of a man in Cloverhill prison was reported. According to media, he became unwell and died shortly after a control and restraint incident (RTE News, *Gardaí investigate prisoner death at Cloverhill*, <https://www.rte.ie/news/ireland/2020/0929/1168167-prison-death/>)

2. Access to urgent medical care

IPRT would like to highlight to the Committee a death in custody investigation report compiled by the Office of Inspector of Prisons and published by the Minister for Justice on 13 August 2020.¹³

The report identifies delays experienced by a 53-year old terminally ill man in prison (2018) in accessing urgent medical care as instructed by the prison doctor. The Inspector of Prisons found that the man was in severe pain, and that failure to transfer the man to the hospital was a “major failing.” Staff shortages were given as the reason for the delay. The man subsequently died in hospital. The Inspector also found that, based on the Prison Information Management System's records, 54 hospital appointments were cancelled from Midlands prison over the last year (2018) due to staff shortages.

This case suggests operational issues are prioritised ahead of healthcare decisions. The Department of Health does not currently govern prison healthcare in Ireland.¹⁴ A review of prison healthcare is currently underway to examine prisoners' health status, the need and demand for healthcare services, and the current level of healthcare service provision in prisons.¹⁵

The Committee may wish to ask the State:

- When the State will complete and publish the prison healthcare needs assessment
- Whether the prison healthcare needs assessment will consider transfer of responsibility for prison healthcare to the Department of Health

Article 7: Right to freedom from torture or cruel, inhuman or degrading treatment or punishment

3. Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (para. 99 of State report¹⁶)

Ireland has not yet ratified the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which it signed on 2 October 2007. The State has previously said that the drafting of the *Inspection of Places of Detention Bill*, which would provide for ratification of the OPCAT and establishment of a National Preventive Mechanism, would be completed by the end of 2018.¹⁷ This timeline was not met, and the General Scheme of the Bill is now expected to be ready for formal drafting before 2020.¹⁸

¹³ Office of the Inspector of Prisons, *Investigation Report into the circumstances surrounding the death of Mr. I 2018*, http://www.justice.ie/en/JELR/Office_of_the_Inspector_of_Prisons_Death_in_Custody_Investigation_Report-Mr_I_2018.pdf/Files/Office_of_the_Inspector_of_Prisons_Death_in_Custody_Investigation_Report-Mr_I_2018.pdf

¹⁴ The European Committee for the Prevention of Torture Council of Europe CPT/Inf (2015) 38 *Report to the Government of Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, <https://rm.coe.int/pdf%20/1680727e23> and the Office of the Inspector of Prisons, *Healthcare in Irish Prisons*, http://www.justice.ie/en/JELR/Healthcare_in_Irish_Prisons_Report.pdf/Files/Healthcare_in_Irish_Prisons_Report.pdf

¹⁵ Department of Justice and Equality, *Parliamentary Question 115*, 13 June 2019, <http://www.justice.ie/en/JELR/Pages/PQ-13-06-2019-115>

¹⁶ International Covenant on Civil and Political Rights, *Fifth periodic report submitted by Ireland under article 40 of the Covenant, due in 2019*. <https://digitallibrary.un.org/record/3856299?ln=en>

¹⁷ Houses of the Oireachtas, *UN Conventions*, Thursday 5 July 2018, <https://www.oireachtas.ie/en/debates/question/2018-07-05/1/>

¹⁸ KildareStreet, *Written answers Wednesday, 13 May 2020*, Department of Justice and Equality, *UN Conventions*, <https://www.kildarestreet.com/wrans/?id=2020-05-13a.1047&s=OPCAT#g1049>

IPRT welcomes that the Government has committed to ratify the OPCAT within 18 months of its formation¹⁹ (i.e., 18 months from June 2020). However, there are significant gaps in oversight of conditions in places where people are deprived of their liberty.

The Committee may wish to ask the State:

- **The timeline for (i) completion of the formal drafting of the *Inspections of Places of Detention Bill*, (ii) establishment of the National Preventive Mechanism, and (iii) ratification of OPCAT.**

Other Prison Issues of Note under Article 7

4. Inspections and Monitoring

Prison inspections and publication of inspection reports play a critical role in ensuring that people deprived of liberty are protected from torture, cruel, inhuman, or degrading treatment or punishment. **During the Covid-19 pandemic, increased levels of oversight are needed to protect against potential torture and ill-treatment of those in custody.** The *complete lack* of published prison inspection reports during the Covid-19 pandemic is of grave concern.

There has been no inspection report of a closed prison published since 2014. Outlined below is a timeline of published prison inspection reports²⁰ since Ireland’s last periodic review under the ICCPR:

Year	Published Inspection Reports
2014	Inspection of Loughan House Open Centre An overview of Mountjoy Prison Campus with particular emphasis on the Separation Unit
2015	No inspection reports
2016	No inspection reports
2017	Report on an Inspection of the Training Unit (semi-open prison)
2018	No inspection reports
2019	No inspection reports
2020	No inspection reports

In September 2020, the Office of Inspector of Prisons launched a new Inspections Framework²¹. IPRT has called for a programme of prison inspections to be announced and commenced with urgency.

Under Irish law, the Minister for Justice retains the power to publish and redact inspection reports.²² IPRT has called for legislative amendments to empower the Office of Inspector of Prisons to publish its own reports.²³

¹⁹ Programme for Government-Our Shared Future, <https://static.rasset.ie/documents/news/2020/06/draft-programme-for-govt.pdf>

²⁰ Office of Inspector of Prisons, *Inspection of Prison Reports*, <https://www.oip.ie/inspection-of-prisons-reports/>

²¹ Office of the Inspector of Prisons (2020) A Framework for the Inspection of Prisons in Ireland, <https://www.oip.ie/launch-of-the-framework-for-the-inspection-of-prisons-in-ireland/>

²² See Section 31 (3) of the *Prisons Act 2007*, <http://www.irishstatutebook.ie/eli/2007/act/10/section/31/enacted/en/html>

²³ See Action 24.3 in IPRT’s *Progress in the Penal System (PIPS): A Framework for Penal Reform (2017)*, <https://pips.iprt.ie/site/assets/files/Progress-in-the-Penal-System-2017.pdf>

Annual reports by prison visiting committees in Ireland vary in quality²⁴ and are not published promptly. For example, the 2018 annual prison visiting committee reports were published 25 May 2020.²⁵ This time delay means there is no insight into the current situation in Irish prisons. IPRT welcomes that the Programme for Government commits to "review the existing functions, powers, appointment procedures and reporting processes for prison visiting committees."²⁶ A timeline for the completion of this work is not yet available.

IPRT reiterates the importance of the timely publication of prison inspection and monitoring reports to prevent torture or any inhuman or degrading treatment, in particular during the pandemic which is a time of heightened vulnerability for people detained in closed settings.

The Committee may wish to ask of the State:

- **Reasons for the lack of published prison inspection reports since 2014 and, in particular, during the Covid-19 pandemic**
- **For information on the State's plans to strengthen the legislative basis of the Inspector of Prisons**
- **Reasons for the substantial delay in the publication of prison visiting committee reports and a timeline of the State's plans to reform prison visiting committees.**

5. Access to Mental Health Treatment

IPRT has consistently highlighted the number of people detained in prison with a severe mental illness awaiting transfer to the Central Mental Hospital.²⁷ The average waiting time for transfer to the Central Mental Hospital in 2019 was 121 days (with a range of seven days to 504 days).²⁸ In IPRT's research on the experiences of people with disabilities in prison²⁹, a key recommendation made was the need for robust safeguards and protections in place regarding procedural rights, consent, and treatment.³⁰

The Committee may wish to ask the State:

- **For information on the lengths of time that individual prisoners with severe psychiatric illness are held in prison awaiting transfer to the Central Mental Hospital.**
- **For information about the conditions prisoners experience while awaiting transfer to the Central Mental Hospital, including periods of isolation.**

²⁴ See Department of Justice and Equality, *Prison Visiting Committee Annual Reports 2018*, http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2018

²⁵ Department of Justice and Equality, 'Publications,' <http://justice.ie/en/JELR/Pages/Publications?OpenDocument&start=21&year=2020>

²⁶ Programme for Government-*Our Shared Future*, p.97 <https://static.rasset.ie/documents/news/2020/06/draft-programme-for-govt.pdf>

²⁷ See, for example Standard 13 in IPRT's (2019) *Progress in the Penal System (PIPS): A Framework for Penal Reform*, <https://pips.iprt.ie/progress-in-the-penal-system-pips/part-2-measuring-progress-against-the-standards/b-prison-conditions/13-mental-healthcare/>

²⁸ This information was received by Deputy James Browne's office on 24 June 2019.

²⁹ IPRT (2020) *Making Rights Real for People with Disabilities in Prisons*, https://www.iprt.ie/site/assets/files/6565/people_with_disabilities_in_detention_-_single-pages.pdf

³⁰ IPRT (2020) *Making Rights Real for People with Disabilities in Prisons*, https://www.iprt.ie/site/assets/files/6565/people_with_disabilities_in_detention_-_single-pages.pdf

6. Solitary Confinement

IPRT is concerned about the number of people held in solitary confinement in Irish prisons, and in particular the use of prolonged solitary confinement. Latest figures show that 75 people are in solitary confinement³¹. Of this number, 22% are 18-24 years old. It is particularly important to note this given the neuro-scientific evidence that brain development continues well into the mid-twenties, and the particularly damaging effects of isolation and lack of access to meaningful activity for these young adults.³²

The Irish Prison Service has not yet published census statistics for April and July 2020³³. Additionally, there is no published information on the lengths of time individuals are held in prolonged isolation.

IPRT's research has highlighted the experiences of prisoners with disabilities in solitary confinement or isolation.³⁴ In line with international human rights standards, solitary confinement should be prohibited for persons with disabilities.

The Committee may wish to ask the State:

- **For information on the lengths of time that individual prisoners are held in solitary confinement (locked up for 22+ hours per day), including the average and the maximum**
- **For information on the numbers of people held in prolonged solitary confinement (more than 14 days)³⁵**

Article 10: The Rights of Prisoners

7. Restricted Regimes and Out-Of-Cell Time (with reference to Article 10 (3))

In January 2020, 14% of the prison population was on a restricted regime, i.e. locked up for 19 or more hours per day.³⁶

In an unpublished prison chaplaincy report, out-of-cell time in 2019 (before the Covid-19 pandemic) for women in the Dóchas Centre female prison was reduced by 32% from 11 hours and 10 minutes to 7 hours and 35 minutes.³⁷ The report states that this reduction coincided with the worst period of overcrowding in women's prisons. Data outlined below show the indicative out of cell time for the general prison population during the Covid-19 pandemic:³⁸

³¹ Irish Prison Service, *Census of Restricted Regimes January 2020 Report*, <https://www.irishprisons.ie/information-centre/statistics-information/census-reports/>

³² IPRT (2015) *Turnaround Youth: Young Adults (18-24) in the Criminal Justice System*, <https://www.iprt.ie/site/assets/files/6357/iprt-turnaround-web-optimised.pdf>

³³ Irish Prison Service, *Census Reports*, <https://www.irishprisons.ie/information-centre/statistics-information/census-reports/>

³⁴ IPRT (2020) *Making Rights Real for People with Disabilities in Prison*, pp.52-53 https://www.iprt.ie/site/assets/files/6565/people_with_disabilities_in_detention_-_single-pages.pdf

³⁵ Irish Prison Service, *Census Reports*, <https://www.irishprisons.ie/information-centre/statistics-information/census-reports/>

³⁶ Irish Prison Service, *Census of Restricted Regimes January 2020*, <https://www.irishprisons.ie/information-centre/statistics-information/census-reports/>

³⁷ Michael Clifford: Damning picture of life in State's largest women's prison, *The Irish Examiner*, <https://www.irishexaminer.com/opinion/commentanalysis/arid-40054439.html>

³⁸ KildareStreet, *Written Answers, Tuesday 14th July 2020*, <https://www.kildarestreet.com/wrans/?id=2020-07-14a.2592>

Prison	Indicative out of cell times for the general prison population	Indicative Daily Lock-Up Hours
Arbour Hill	8	16
Castlerea	5	19
Cloverhill	5.4	18.6
Cork	5	19
Limerick	8	16
Loughan House (open prison)	Full day out-of-cell time	
Midlands	5.5	18.5
Mountjoy Male	4.5	19.5
Mountjoy Female	5	19
Portlaoise	6	18
Shelton Abbey (open prison)	Full day out-of-cell time	
Wheatfield	7	17

IPRT is concerned about the limited out-of-cell time and prisoners' access to rehabilitative activities such as schools and workshops, and the impact of Covid-19 on the rehabilitation and sentence management of prisoners. (Participation in education was already low before the pandemic.³⁹) There is further evidence of a declining rehabilitative ethos of the prison system in Ireland:

- **Limited access to service provision:** For example, there was one addiction counsellor to a population of 431 prisoners in Cloverhill prison in 2019.⁴⁰ The overall ratio of psychologists to prisoners is 1:251.⁴¹
- **Sentence Management:** There are 23 Integrated Sentence Management officers.⁴² The current prison population is 3,714.⁴³
- **Civic Engagement:** Approximately 3-4% of the prison population voted in two ballots in Ireland in 2019.⁴⁴

It is important that restrictions introduced in response to COVID-19 are proportionate and necessary to levels of risk, and do not undermine the rehabilitative purpose of prison.

³⁹ See, for example, Standard 18: Education in IPRT's *Progress in the Penal System (PIPS): A Framework for Penal Reform (2018)*, p.76 <https://www.iprt.ie/site/assets/files/6470/pips2018.pdf>

⁴⁰ See KildareStreet *Written Answers Thursday 13th June, 2019, Department of Justice and Equality, Prison Medical Service*, <https://www.kildarestreet.com/wrans/?id=2019-06-13a.296>

⁴¹ See Standard 13 Mental Healthcare in *Progress in the Penal System (PIPS): A Framework for Penal Reform*,

⁴² Data received by the Irish Prison Service for IPRT's PIPS project, see Standard 17 <https://pips.iprt.ie/progress-in-the-penal-system-pips/part-2-measuring-progress-against-the-standards/c-regimes/17-sentence-management/>

⁴³ Irish Prison Service, 2020 Prison Populations, (1st October 2020) <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/2020-prison-populations/>

⁴⁴ See Standard 21 Political and Civic Participation in *Progress in the Penal System (PIPS): A Framework for Penal Reform*,

The Committee may wish to enquire:

- **Reasons for the delay in the publication of the *Census of Restricted Regimes* for April 2020 and July 2020 during the Covid-19 pandemic, and the timeline for publication of these data**
- **For information on the impact of Covid-19-related restrictions on daily out-of-cell time in each prison for the general prison population**
- **For information on the levels of access to rehabilitative activities such as prison schools and workshops during the pandemic.**

Non-custodial sanctions (para. 148-152)⁴⁵

There is evidence that Ireland continues to be over-reliant on imprisonment as a response to less serious offending. For example, in 2019 there was a 21% increase in the number of committals to prison on sentences of less than 12 months.⁴⁶ In total, 76% of all sentenced prison committals were for sentences of less than 12 months.

There has been a 35% increase in the use of Community Service Orders since 2017.⁴⁷ However, this has not coincided with a decrease in short-term prison sentences. For example, in 2019, there were 4,314 committals to prison for sentences of less than 12 months⁴⁸, compared to 2,971 Community Service Orders handed down.⁴⁹

Under the *Criminal Justice (Community Service) (Amendment) Act 2011*⁵⁰, there is a requirement for judges to consider community service as a direct alternative to short-term imprisonment. Based on the information available, IPRT is concerned that the increase in Community Service Orders may be as a result of 'net-widening' (i.e. low-risk offenders who would otherwise receive lighter sanctions).

There has also been a continued decline in the number of prisoners accessing structured early release programmes in Ireland such as the Community Return Programme. For example, in 2014, 455 people commenced Community Return⁵¹; this number has declined in recent years to 218 in

⁴⁵ International Covenant on Civil and Political Rights, *Fifth periodic report submitted by Ireland under article 40 of the Covenant, due in 2019*. <https://digitallibrary.un.org/record/3856299?ln=en>

⁴⁶ Irish Prison Service, *Annual Report 2019*, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2019-Web.pdf

⁴⁷ The Probation Service, *Annual Report 2019*, p.55
[http://www.probation.ie/EN/PB/0/97C8BC2BB20C1AD2802585BB00388D6C/\\$File/Probation%20Annual%20Report%202019%20Final%20Version%20A4.pdf](http://www.probation.ie/EN/PB/0/97C8BC2BB20C1AD2802585BB00388D6C/$File/Probation%20Annual%20Report%202019%20Final%20Version%20A4.pdf)

⁴⁸ Irish Prison Service, *Annual Report 2019*, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2019-Web.pdf

⁴⁹ Probation Service, *Annual Report 2019*,
[http://www.probation.ie/EN/PB/0/97C8BC2BB20C1AD2802585BB00388D6C/\\$File/Probation%20Annual%20Report%202019%20Final%20Version%20A4.pdf](http://www.probation.ie/EN/PB/0/97C8BC2BB20C1AD2802585BB00388D6C/$File/Probation%20Annual%20Report%202019%20Final%20Version%20A4.pdf)

⁵⁰ Irish Statute Book, *Criminal Justice (Community Service) (Amendment) Act 2011*,
<http://www.irishstatutebook.ie/eli/2011/act/24/enacted/en/print>

⁵¹ Probation Service, *Annual Report 2014*, p. 55
[http://www.probation.ie/EN/PB/0/DA97577818D7C6E9802580210034E547/\\$File/Probation+Service+Annual+Report+2014+web.pdf](http://www.probation.ie/EN/PB/0/DA97577818D7C6E9802580210034E547/$File/Probation+Service+Annual+Report+2014+web.pdf)

2018 and 206 in 2019.⁵² Compliance rates of 89% with the Community Return Programme have been reported.⁵³

The commencement of the *Fines (Payment and Recovery) Act 2014* has resulted in a significant overall reduction in the number of committals to prisons on short sentences. However, in 2019, there was a near doubling of committals for the non-payment of court-ordered fines, from 455 in 2018 to 861 in 2019.⁵⁴ A review of the operation of the Fines Act is required.

The Committee may wish to enquire:

- **Reasons for the under-utilisation of Community Service Orders as a direct alternative to short-term prison sentences**
- **Information on efforts made by the State to increase access to successful structured early release programmes such as Community Return**
- **Information on the State's response to the increasing number of committals for the non-payment of court-ordered fines**

8. Conditions of Detention

Overcrowding (para. 148-152)⁵⁵

The daily average number of persons in custody in 2019 was 3,971.⁵⁶ This was an increase on 2017 and 2018. Several people throughout the prison estate in 2019 were sleeping on mattresses⁵⁷ and 43% were sharing cells.⁵⁸ The two women's prisons continue to experience chronic overcrowding.⁵⁹

Overcrowding has been to some extent alleviated as a result of the Covid-19 pandemic. There was an 11% reduction in numbers from 4,235 on 11 March 2020 to 3,748 on 6 August 2020.⁶⁰ This was achieved through the structured release of 450 prisoners, the majority of whom were serving sentences of less than 12 months.

⁵² Probation Service, *Annual Report 2019*, p.55

[http://www.probation.ie/EN/PB/0/97C8BC2BB20C1AD2802585BB00388D6C/\\$File/Probation%20Annual%20Report%202019%20Final%20Version%20A4.pdf](http://www.probation.ie/EN/PB/0/97C8BC2BB20C1AD2802585BB00388D6C/$File/Probation%20Annual%20Report%202019%20Final%20Version%20A4.pdf)

⁵³ Irish Prison Service, *Annual Report 2019*, p.41 <https://www.irishprisons.ie/information-centre/publications/annual-reports/>

⁵⁴ Irish Prison Service, *Annual Report 2019*, p.25 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2019-Web.pdf

⁵⁵ International Covenant on Civil and Political Rights, *Fifth periodic report submitted by Ireland under article 40 of the Covenant, due in 2019*. <https://digitallibrary.un.org/record/3856299?ln=en>

⁵⁶ Irish Prison Service, *Annual Report 2019*, p.25 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2019-Web.pdf

⁵⁷ See standard 7 of IPRT's *Progress in the Penal System (PIPS): A Framework for Penal Reform*, <https://pips.iprt.ie/progress-in-the-penal-system-pips/part-2-measuring-progress-against-the-standards/b-prison-conditions/7-humane-prison-conditions/>

⁵⁸ See Irish Prison Service, *Census of Cell Occupancy and In-Cell Sanitation Report*, <https://www.irishprisons.ie/information-centre/statistics-information/census-reports/>

⁵⁹ See Irish Prison Service, *Daily Prison Population*, <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/>

⁶⁰ Department of Justice and Equality, *Covid-19 Information regarding the Justice Sector Covid-19 plans*, [http://www.justice.ie/en/JELR/Pages/Information regarding the Justice Sector COVID-19 plans](http://www.justice.ie/en/JELR/Pages/Information%20regarding%20the%20Justice%20Sector%20COVID-19%20plans)

In 2019, the Irish Prison Service undertook a cell audit to identify cells "capable of holding two prisoners that are only occupied by one."⁶¹ This resulted in an increased bed capacity of the Dóchas Centre (female prison) from 105 to 146 beds. Since 18 February 2020, the Irish Prison Service has stopped publishing prison occupancy rates based on the Inspector of Prisons' maximum capacities (which were generally lower than those of the Irish Prison Service).⁶²

Latest published census figures (January 2020) show that while 53% of the prison population had access to single-cell accommodation, 36% were sharing a cell with one other, 9% were sharing triple cells, and 2% were in quadruple cells (the majority of which are dormitories in an open prison).⁶³

The Committee may wish to enquire:

- **Whether the State is currently meeting the CPT minimum standards on living space per prisoner in prison establishments⁶⁴**
- **Whether there are plans by the State to introduce and implement safe custody limits across the prison estate**
- **How the State plans to eliminate overcrowding and ensure single cell occupancy across the estate**

9. Lack of In-cell Sanitation (para. 153-155)⁶⁵

The degrading practice of "slopping out" continues in Irish prisons: 58 prisoners in Limerick and Portlaoise prisons are required to slop out.⁶⁶ 43% of the prison population are required to toilet in the presence of others.

The Committee may wish to enquire:

- **Progress on the elimination of slopping out, particularly in light of the Covid-19 pandemic and definitive timelines for the ending of this practice in Limerick and Portlaoise prisons**
- **Plans to reduce the number of prisoners required to toilet in the presence of others**

⁶¹ Two prison units opened to tackle overcrowding, *The Irish Examiner*, <https://www.irishexaminer.com/news/arid-30921697.html>

⁶² Irish Prison Service, *Prisoner Population on 18 February 2020*, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/18-February-2020.pdf

⁶³ Irish Prison Service, *Census Prison Population January 2020-Cell Occupancy-In Cell Sanitation*, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/January-2020-In-Cell.pdf

⁶⁴ European Committee for the Prevention of Torture, *Living space per prisoner in prison establishments: CPT standards*, <https://rm.coe.int/16806cc449>

⁶⁵ International Covenant on Civil and Political Rights, *Fifth periodic report submitted by Ireland under article 40 of the Covenant, due in 2019*. <https://digitallibrary.un.org/record/3856299?ln=en>

⁶⁶ Irish Prison Service, *Census of Cell Occupancy and In-Cell Sanitation January 2020-Report*, <https://www.irishprisons.ie/information-centre/statistics-information/census-reports/>

10. Lack of segregation of remand and convicted prisoners (Article 10 (2) a.) (para. 156-157)⁶⁷

To note, Article 10 (2) is Ireland's second reservation to the ICCPR, where it reserves the right to regard full implementation as an objective to be achieved progressively. Overcrowding has been cited as a reason for this reservation.

There has been a 21% increase in the average number of people held on remand in Irish prisons since 2017.⁶⁸ Snapshot figures from 2019 show that approximately 27% of the remand prison population was sharing a cell with sentenced prisoners.⁶⁹ For female prisoners, there is no separation of detainees awaiting trial, immigration detainees, and sentenced prisoners.⁷⁰

The Director-General of the Irish Prison Service has said that remand prisoners are required to be held for much longer periods and at higher levels of security due to seriousness of charges.⁷¹ However, there is no published data on how many remand detainees subsequently receive a custodial sentence.

IPRT believes that broader social and economic issues, such as homelessness, are a factor behind the increasing number of people on remand in prison. In 2019, 7.8% of committals to prison declared they were of 'no fixed abode',⁷² while an Irish study has found that 17.4% or one in six people were homeless on committal.⁷³ Homelessness is a particular issue for men held in Cloverhill Prison [the main remand facility], according to the Prison Visiting Committee: "*There is a high degree of homelessness among the prisoners with perhaps as much as one third of prisoners being affected.*"⁷⁴

The Irish Prison Service has been commended for its success in keeping Covid-19 out of prisons. The first confirmed case of COVID-19 among prisoners in Irish prisons was in August 2020, and involved a young female prisoner who was homeless and remanded to prison for offences relating to threatening and abusive behaviour.⁷⁵

⁶⁷ International Covenant on Civil and Political Rights, *Fifth periodic report submitted by Ireland under article 40 of the Covenant, due in 2019*. <https://digitallibrary.un.org/record/3856299?ln=en>

⁶⁸ Irish Prison Service, *Annual Report 2019*, p.2 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2019-Web.pdf

⁶⁹ Department of Justice and Equality, *Parliamentary Question 239, 18 June 2019*, <http://www.inis.gov.ie/en/JELR/Pages/PQ-18-06-2019-239>

⁷⁰ Law Reform Commission Discussion Paper, *Domestic Implementation of International Obligations*, p.145 <https://www.lawreform.ie/fileupload/Reports/LRC%20124%202020%20-%20Domestic%20Implementation%20of%20International%20Obligations.pdf>

⁷¹ Irish Prison Service, *Annual Report 2019*, p.2 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2019-Web.pdf

⁷² Irish Prison Service, *Annual Report 2019*, p.31: https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2019-Web.pdf

⁷³ Gulati, G., Keating N., O'Neill, A., Delaunoy, I., Meagher D. and Dunne, C.P. (2018), 'The prevalence of major mental illness, substance misuse and homelessness in Irish prisoners: Systematic review and meta-analyses,' *Irish Journal of Psychological Medicine* (2019), Vol. 36, pp. 35–45.

⁷⁴ Department of Justice and Equality (2019), *Annual Report 2017 from Cloverhill visiting Committee to the Minister for Justice Charles Flanagan*, p.2 [http://www.justice.ie/en/JELR/Cloverhill Prison Visiting Committee Annual Report 2017.pdf/Files/Cloverhill Prison Visiting Committee Annual Report 2017.pdf](http://www.justice.ie/en/JELR/Cloverhill%20Prison%20Visiting%20Committee%20Annual%20Report%202017.pdf/Files/Cloverhill%20Prison%20Visiting%20Committee%20Annual%20Report%202017.pdf)

⁷⁵ Woman (23) becomes first positive Covid-19 case in Irish prison system, *Independent.ie*, <https://www.independent.ie/irish-news/woman-23-becomes-first-positive-covid-19-case-in-irish-prison-system-39469801.html>

The State continues to detain immigration detainees in prisons, despite reporting plans to develop a facility near Dublin airport.⁷⁶

The Committee may wish to ask the State:

- **For information on the factors driving the increased use of pre-trial detention in Ireland**
- **Data on the number of remand prisoners sharing a cell with sentenced prisoners in 2020**
- **For an update on the planned immigration detention facility at Dublin airport**

11. Violence in prisons (para. 158-160)⁷⁷

The Irish Prison Service has not yet published data on assaults in 2019. However, IPRT welcomes that the Irish Prison Service has been publishing this data on a yearly basis, along with statistics on the number of control and restraint incidents.⁷⁸

The National Violence Reduction Unit opened in Midlands Prison in November 2018. The Unit was described as having “additional safety features” such as concealed batons and body worn cameras.⁷⁹

The Committee may wish to ask the State:

- **To provide data on the number of assaults in prisons in 2019 and 2020, including data on sexual assaults**
- **Provide further information on the National Violence Reduction Unit, including the therapeutic programmes available; the use of batons in the NRVU and other measures, such as the body-worn cameras and barrier-handling; and the procedures in place to safely reintegrate the individual back from the NVRU into the general prison population or upon release to the community**

12. A fully independent complaints system (para. 161-163)⁸⁰

Prisoners in Ireland still have no access to an independent complaints system in Ireland, despite commitments made in 2016 that the remit of the Ombudsman would be extended to prisoner complaint appeals.⁸¹ This is of particular concern to IPRT. The Irish Prison Service said that a revised internal complaints system would be in place by quarter 3 of 2019.⁸² This revised system is not yet

⁷⁶ Airport immigration detention facility still not operational, *The Irish Times*, <https://www.irishtimes.com/news/crime-and-law/airport-immigration-detention-facility-still-not-operational-1.4326881>

⁷⁷ International Covenant on Civil and Political Rights, *Fifth periodic report submitted by Ireland under article 40 of the Covenant, due in 2019*. <https://digitallibrary.un.org/record/3856299?ln=en>

⁷⁸ Irish Prison Service, Assault figures, <https://www.irishprisons.ie/information-centre/statistics-information/assault-figures/>

⁷⁹ Department of Justice and Equality, *Minister Flanagan Opens New Violence Reduction Unit in Midlands Prison, Portlaoise and New Extension to the Irish Prison Service Training College*, <http://www.justice.ie/en/JELR/Pages/PR18000350>

⁸⁰ International Covenant on Civil and Political Rights, *Fifth periodic report submitted by Ireland under article 40 of the Covenant, due in 2019*. <https://digitallibrary.un.org/record/3856299?ln=en>

⁸¹ Department of Justice and Equality, *Tánaiste accepts recommendation to give Ombudsman a role in prison complaints*, <http://justice.ie/en/JELR/Pages/PR16000125>

⁸² Department of Justice and Equality, *Parliamentary Questions, 30th January 2019*, <http://www.justice.ie/en/JELR/Pages/PQ-30-01-2019-148>

introduced. However, a new Complaints Unit has been established, with the new prisoner's complaints system now expected to be introduced by the end of 2020.⁸³

There were 60 'category A' complaints recorded in 2019 and 24 in the first half of 2020. Category A complaints refer to "those alleging assault or use of excessive force against a prisoner, or ill treatment, racial abuse, discrimination, intimidation, threats or any other conduct against a prisoner of a nature and gravity likely to bring discredit on the Irish Prison Service."⁸⁴

An unpublished prison chaplaincy report for the Dóchas Centre reported complaints about "verbal abuse, xenophobic remarks, threatening language and pointed exclusion/favouritism of others."⁸⁵ These complaints are related to a small number of staff. Women were described in the report as afraid to make an official complaint internally for fear of "further penalisation from the staff involved."⁸⁶

The Committee may wish to ask the State:

- To provide an update on the introduction of the new internal prison complaints system including measures taken to ensure confidence in the system among prisoners and staff
- To provide an update on the timeline for the extension of the Ombudsman's remit to facilitate prisoners with access to an independent complaints body.

13. Family Life (Article 17, Article 23)

IPRT would like to highlight the particular impact on the right to family life during the Covid-19 pandemic for prisoners and their families. Under Irish law, sentenced prisoners are entitled to have one thirty-minute visit a week, while remand prisoners are entitled to a minimum of three 15-minute visits a week.⁸⁷ Currently, due to Covid-19 restrictions, prisoners are allowed one visit for 15 or 20 minutes (according to Phase level) per fortnight for two adults or one adult and one child.⁸⁸ While IPRT acknowledges that restrictions must comply with pandemic-related public health guidance, these measures have been particularly harsh on families, especially the children who have not seen their parent in person since the beginning of the pandemic. Research conducted by IPRT highlights the issues raised by families, particularly the difficult situation of having to choose which one child from the family to bring.⁸⁹ While the Irish Prison Service introduced video calls as an alternative option, video-calls have reportedly not always worked.⁹⁰

⁸³ Houses of the Oireachtas, *Prisoner Complaints Procedures*, <https://www.oireachtas.ie/en/debates/question/2020-06-30/317/?highlight%5B0%5D=complaints&highlight%5B1%5D=prisoners&highlight%5B2%5D=complaints&highlight%5B3%5D=prisoners>

⁸⁴ Houses of the Oireachtas, *Prisoner Complaints Procedures*, <https://www.oireachtas.ie/en/debates/question/2020-06-30/317/?highlight%5B0%5D=complaints&highlight%5B1%5D=prisoners&highlight%5B2%5D=complaints&highlight%5B3%5D=prisoners>

⁸⁵ Michael Clifford: Reports on the prison system deserve serious consideration, *The Irish Examiner*, <https://www.irishexaminer.com/opinion/commentanalysis/arid-40044470.html>

⁸⁶ Michael Clifford: Reports on the prison system deserve serious consideration, *The Irish Examiner*, <https://www.irishexaminer.com/opinion/commentanalysis/arid-40044470.html>

⁸⁷ Irish Statute Book, *Prison Rules 2007*, <http://www.irishstatutebook.ie/eli/2007/si/252/made/en/print>

⁸⁸ Irish Prison Service, *Phase 3-Restoration of Physical Visits, September 23rd 2020*, <https://www.irishprisons.ie/irish-prison-service-phase-3-restoration-physical-visits/>

⁸⁹ IPRT, "I am worried about the lasting impact this will have": *The experiences of people with a family member in prison during COVID-19*, (see Key finding 5) https://www.iprt.ie/site/assets/files/6775/results_of_families_of_prisoners_survey_final_web-1.pdf

⁹⁰ Kildare Street, *Written answers, Tuesday 14th of July 2020, Department of Justice and Equality, Prisoner Data*, <https://www.kildarestreet.com/wrans/?id=2020-07-14a.2592> and IPRT, "I am worried about the lasting impact this will

The Committee may wish to enquire:

- **For information on the steps the State is taking to promote the right to family life for prisoners and their families; as well as the rights of children of imprisoned parents to have direct contact with their parent**

14. Rehabilitation & Spent Convictions (Article 10)

Ireland's spent convictions legislation⁹¹ is very limited and does not fulfill its rehabilitative aims. The current legislation only allows certain convictions (e.g. minor motoring and public order offences) to become spent after seven years, plus one other conviction. The *Criminal Justice (Rehabilitative Periods) Bill*⁹² introduced in 2018, if passed and enacted, would increase access to a 'clean slate' for those with convictions histories who have demonstrated that they have moved on from offending behaviour. Core to the spirit of rehabilitation is the principle that any person who has demonstrated their commitment to move on from offending by the completion of a conviction-free period should be able to benefit.

The Committee may wish to enquire:

- **For data on the percentage of the adult population who carry unspent convictions**
- **For details on how the State plans to increase access of people with old or minor convictions histories to an effective spent convictions scheme**

15. Juvenile Justice (with reference to Article 10 (3) a) (para. 164-168)⁹³

In August 2020, there were 36 young people in Oberstown Child Detention Campus.⁹⁴ Of this number, 39% were held on remand. Children in detention previously reported that remand units were poorer than other units and there were fewer opportunities for children to engage in activities.⁹⁵ 41% of children were either in State Care or had significant involvement with child protection and welfare services prior to their detention.⁹⁶ Traveller children are disproportionately represented, comprising 19% of children in Oberstown. In addition, 23% of children had a diagnosed learning disability, and 31% had experienced the loss of a parent.

have": *The experiences of people with a family member in prison during COVID-19*, https://www.iprt.ie/site/assets/files/6775/results_of_families_of_prisoners_survey_final_web-1.pdf

⁹¹ Irish Statute Book, *Criminal Justice (Spent Convictions and Certain Disclosures) Act*, <http://www.irishstatutebook.ie/eli/2016/act/4/enacted/en/html>

⁹² Irish Statute Book, *Criminal Justice (Rehabilitative Periods) Bill*, <https://data.oireachtas.ie/ie/oireachtas/bill/2018/141/eng/initiated/b14118s.pdf>

⁹³ International Covenant on Civil and Political Rights, *Fifth periodic report submitted by Ireland under article 40 of the Covenant, due in 2019*. <https://digitallibrary.un.org/record/3856299?ln=en>

⁹⁴ Oberstown Children Detention Campus, *Statistical Breakdown of Young People on Campus August 2020*, <https://www.oberstown.com/wp-content/uploads/pda/2020/09/FME-August-2020.pdf?t=5f69d2eb9004a>

⁹⁵ Oberstown Children Detention Campus, *Statistical Breakdown of Young People on Campus August 2020*, <https://www.oberstown.com/wp-content/uploads/pda/2020/09/FME-August-2020.pdf?t=5f69d2eb9004a>

⁹⁶ Oberstown Children Detention Campus, *Q1 2019 Profile of Young People in Detention*, https://www.oberstown.com/wp-content/uploads/2019/10/OBERSTOWN_Profile_of_Young_People_SEPT_2019_V3.pdf

In 2016, there were 3,027 single separation incidents recorded at Oberstown Children Detention Campus.⁹⁷ The Health Information and Quality Authority, which is responsible for conducting independent inspections, raised further concerns in 2017 about children spending prolonged periods of time in single separation and the lack of management oversight in the monitoring of these incidents.⁹⁸ The most recent published report by HIQA (in 2019) welcomed a reduction in single separation incidents, however noted that there were still a significant use of restrictive procedures on the campus.⁹⁹ Oberstown Children Detention Campus publishes data related to restrictive procedures on a quarterly basis.¹⁰⁰ There were 48 incidents of single separation¹⁰¹ in June 2020, involving 24 young people.

The Committee may consider requesting information on:

- **Whether all children on remand are detained separately from sentenced children and information on conditions for children on remand**
- **Steps the State is taking to address the over-representation of certain groups of children (for example, children in the care system and Traveller children)**
- **The lengths of time that individual children are being held in single separation and plans to introduce a legal framework governing the use of single separation for children in detention**
- **Information on how Covid-19 restrictions have impacted on children in detention with particular regard to rehabilitative activities such as education and workshops and family contact**

Conclusion

For further information on the state of Irish prisons, please view IPRT's (2019) Progress in the Penal System (PIPS): A Framework for Penal Reform: <https://pips.iprt.ie/>

IPRT is happy to be contacted for any further information or enquiries with our details on the cover page of our submission.

⁹⁷ Health Information and Quality Authority, *Monitoring Inspection Report-Detention School Services under the Children Act 2001*, <https://www.hiqa.ie/system/files?file=inspectionreports/4225-oberstown%20children%20detention%20campus-27-03-2017.pdf>

⁹⁸ Health Information and Quality Authority, *Monitoring Inspection Report-Detention School Services under the Children Act 2001*, <https://www.hiqa.ie/system/files?file=inspectionreports/4225-oberstown%20children%20detention%20campus-27-03-2017.pdf>

⁹⁹ Health Information and Quality Authority, *Report of Oberstown Children Detention Campus*, <https://www.hiqa.ie/system/files?file=inspectionreports/4225-OberstownChildrenDetentionCampus-16-July-2019.pdf>

¹⁰⁰ Oberstown Children Detention Campus, Campus Statistics, <https://www.oberstown.com/campus-stats/>

¹⁰¹ The definition of single separation provided by Oberstown Child Detention Campus is "Single separation is a behaviour management tool whereby a young person is moved out of their peer group on campus for a period of time due to concerns relating to their behaviour, where they may pose a risk to the safety of other young people or staff, or to their own safety." <https://www.oberstown.com/campus-stats/>