



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

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Summary record of the first part (public)* of the 1002nd meeting

Held at the Palais Wilson, Geneva, on Monday, 23 May 2011, at 10 a.m.

Chairperson: Ms. Gaer (Vice-Chairperson)

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1002/Add.1.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Initial report of Ireland (CAT/C/IRL/1)

1. *At the invitation of the Chairperson, the members of the delegation of Ireland took places at the Committee table.*

2. **Mr. Aylward** (Ireland) said that Ireland was a party both to the Convention against Torture, which it had ratified in April 2002 and to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which had come into force in Ireland in 1989. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) had made five visits to Ireland, most recently in January and February 2011. The report of that visit had been published in February 2011 at the request of the Irish Government.

3. Ireland's unrelenting commitment to combating torture had led to the adoption of the Criminal Law (United Nations Convention against Torture) Act 2000, which had established the total prohibition of torture, including in exceptional circumstances such as a state of war or any other public emergency. The text established the full extraterritorial jurisdiction of the Irish courts over torture and related offences, regardless of the nationality of the perpetrator or victim of the acts in question, which went beyond the obligations set forth in the Convention. Furthermore, the Irish Government had recently approved a bill to ratify the Optional Protocol to the Convention, which would be completed as soon as possible.

4. Several entities were authorized to make regular, unannounced visits to detention centres, notably the Inspector of Prisons, who reported to the Department of Justice and Equality and whose reports were public, the Inspector of Mental Health Services, who was tasked with visiting psychiatric facilities and was under the authority of the Department of Health, and the Social Services Inspectorate, which was supervised by the Health Information and Quality Authority.

5. The Committee was no doubt well acquainted with the reports submitted by the Irish Human Rights Commission and Irish non-governmental organizations (NGOs) that had also made a significant contribution to the preparatory work for the first universal periodic review of Ireland, which would take place in October 2011. The reports had raised a number of issues that the Government had studied with care and about which his delegation would be interested in hearing the questions and comments of the Committee. The report published by the European Committee for the Prevention of Torture following its most recent visit to Ireland had noted positive changes to the penitentiary system, such as the modernization of the prison estate, while drawing attention to persistent problems such as widespread overcrowding and the persistence of slopping out in some prisons. Several concrete measures had been taken to address those concerns. At the legislative level, measures had been adopted that were aimed at developing alternative penalties to detention for the perpetrators of minor, non-violent offences. It would be appropriate in that respect to refer to the Fines Act 2010 and to the amendments to the Criminal Justice (Community Service) Act 1983 currently under consideration. Regarding infrastructure, the Government had launched a broad investment programme that had already increased the prison estate's capacity by 600 places since January 2008. Midlands Prison would be able to accommodate 300 extra detainees by the end of 2012 and the Mountjoy complex would have 70 additional places in the women's section and 36 cells with additional sanitation in C Wing by the end of summer 2011. While 72 per cent of cells had sanitation, the figure would be over 80 per cent when the Midlands Prison extension opened in 2012. The prison service

was also currently considering the possibility of providing all cells in Cork Prison with toilets.

6. Ireland was also working to combat all forms of trafficking in persons. An Anti-Human Trafficking Unit had been set up in 2008 under the Department of Justice and Equality in order to coordinate action in that domain. In cooperation with public partners and civil society, the unit had implemented a national action plan to combat and prevent trafficking in persons for the period 2009–2012. Furthermore, special support units for victims of trafficking had been established within the national police, the Health Service Executive and the Legal Aid Board. The Criminal Law (Human Trafficking) Act 2008 laid down severe penalties, up to life imprisonment, for traffickers. The act of soliciting a victim of trafficking for prostitution was punishable by a maximum prison term of 5 years. On the international front, Ireland had ratified the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing that Convention, both of which had entered into force on 17 July 2010, and the Council of Europe Convention on Action against Trafficking in Human Beings, which had entered into force on 1 November 2010. Ireland was also the leader of a campaign that had been launched in 2008 in cooperation with five other European countries, the European Police Office, INTERPOL and Eurojust under the banner “Don’t Close Your Eyes to Human Trafficking” and backed by the Anti-Human Trafficking Unit and its partners.

7. Six government departments and up to 100 non-governmental organizations were engaged in combating sexual and domestic violence. In June 2007, the National Office for the Prevention of Domestic, Sexual and Gender-based Violence had been created, which had implemented a national strategy for 2010–2019 in consultation with numerous stakeholders. At the international level, Ireland supported the Secretary-General’s UNiTE to End Violence against Women campaign and had contributed to the United Nations Trust Fund in Support of Actions to Eliminate Violence against Women.

8. **Mr. Gallegos Chiriboga** (Country Rapporteur), welcoming the presentation of the initial report of Ireland, said that it marked an important step and the beginning of a process of constructive dialogue. The dialogue with the Committee was an appropriate time for the State party to indicate whether the definition of torture in domestic legislation had been amended so that it no longer covered the actions or failure to act of public officials; if such was the case, it was a step backwards and was contrary to the Convention. He asked the delegation for details of how the problems posed by budget cuts of over 30 per cent to the Irish Human Rights Commission were to be resolved, and what action was being taken to enable the Health Information and Quality Authority to inspect homes for elderly people and people with disabilities. He would also welcome comments on the concerns raised by the European Committee for the Prevention of Torture regarding the detention conditions of people with mental health disorders. Consent to treatment, as provided for in the Mental Health Act, 2001, did not conform to international norms and the forced placement of people with mental disabilities in institutions without any possibility of appeal was most troubling. With regard to action against trafficking in persons, he encouraged the State party to ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

9. The delegation was invited to explain the measures adopted to enable the authorities to act in cases where it was suspected that handing over a detainee risked him or her being subjected to torture. On that matter, the Committee would appreciate comments regarding the information from Wikileaks, taken up by Amnesty International, that in a conversation the ambassador of the United States of America had thanked the Irish Minister of Foreign Affairs for not carrying out the inspections requested by the Commission on Human Rights of aircraft suspected of having been used for so-called rendition flights. According to

Amnesty International, there was no proof that Irish airspace had not been used for ends contrary to international law and it remained to be seen whether the prohibition on flying or landing foreign military aircraft in Ireland without the permission of the Irish Government applied equally to secret-service planes. In the view of Amnesty International, an independent inquiry into the allegations surrounding “rendition flights” was essential to assuage doubts over possible violations of human rights and to prevent such violations in future.

10. It would be useful if the Irish delegation could explain why the number of people being granted asylum was falling and how the State party intended to limit the extensive powers of the Ministry of Justice under article 36 of the Immigration Act 1999. Various NGOs had remarked on the lack of transparency in the consideration of applications for refugee status and had expressed concern at possible violations by Ireland of article 3 of the Convention. The Refugee Act 1996 had established two bodies tasked with considering such requests, but their independence was questionable, since they were both under the authority of the Ministry of Justice. The figures from 2010 warranted further comment: only 2 per cent of persons seeking refugee status had been successful, compared to the European average of 27 per cent.

11. Although additional guarantees against refoulement had been provided by a supplementary procedure introduced in 2006, several NGOs reported that the procedure contained gaps, notably that the procedure did not come into play until a decision of expulsion had been reached and that it was not fully independent. The Office of the United Nations High Commissioner for Human Rights had expressed concern at the procedure detailed in the law on protection enacted in 2010 and had called for the implementation of a more transparent and effective system. Article 59, paragraph 2, of the Immigration, Residence and Protection Bill gave rise to particular concerns in that it permitted the summary expulsion of irregular immigrants by members of the police or immigration services. That raised the issue of how the provision on non-refoulement in article 58 of the same text would be respected. It also appeared that there was no provision for an appeal mechanism. Clarifications on those points would be appreciated, as would an indication of whether the provisions of the Istanbul Protocol were applied when evaluating cases of torture.

12. The Committee expressed concern at the cutbacks to the National Consultative Committee on Racism and Interculturalism as part of the budgetary austerity policy and was convinced that the body would have an even greater role than usual to play during a time of crisis, since economic difficulties tended to be accompanied by an increase in racially motivated offences. The budget cuts had also affected the Irish Human Rights Commission, to the extent that its very functioning was called into question. A range of NGOs, and the Commission itself, had asked that the institution be placed under the authority of Parliament, rather than the Ministry of Justice and the State party was invited to refer to the Paris Principles on that matter. It might be worthwhile to examine how the various human rights mechanisms could be combined into a single, independent, global body, since the proliferation of ombudsmen ran the risk of complicating human rights promotion.

13. In concluding, he welcomed the fact that offenders who had committed acts of torture were punishable by life imprisonment, which sent a strong message against impunity. In order fully to meet its commitments in the sphere of human rights and to offer better protection in particular to those with mental disorders currently within the prison system, the State party was encouraged to ratify the Convention on the Rights of Persons with Disabilities without delay.

14. **Ms. Kleopas** (Alternate Country Rapporteur) said that she was pleased to have received the initial report of Ireland, even though it had been submitted several years late.

While the report went into some detail on the provisions of domestic legislation relating to the application of the Convention, it contained few statistics or specific examples, despite the fact that such data were essential to enable the Committee effectively to evaluate the application of the Convention by the State party. Several NGOs and human rights bodies had complained that they had not been properly consulted during the preparation of the report. It would be useful if the State party could indicate whether, apart from the call for contributions made on 13 December 2005, consultations had been held with civil society when drafting the report.

15. The recording of police interrogations of suspects was crucial in preventing torture and ill-treatment. The State party had indicated in its report that enough police stations in the divisions of the Garda Síochána possessed suitable equipment to record all interrogations, which was a positive development. Elsewhere in the report, however, it became clear that interrogations were sometimes not recorded because the equipment was already in use or was unavailable for some other reason. That justification was unconvincing and details of the measures that were being taken to ensure that all interrogations were systematically recorded, would be appreciated. A programme to modernize and refurbish custody cells had been developed following a study carried out by the Garda Síochána and it would be interesting to know what specific steps had been taken under the programme, particularly in Bridewell and Mayfield Garda Stations in Cork. She also asked whether people who were detained by the police for more than 24 hours were able to exercise outside once a day.

16. Conditions of detention in penal institutions had been strongly criticized by, among others, the Irish Human Rights Commission, the European Committee for the Prevention of Torture and the Human Rights Committee. The persistent overcrowding, the lack of sanitary facilities, the absence of mental-health services, the failure to separate convicted prisoners from those awaiting trial and the violence between inmates had all been judged to be of particular concern. With regard to overcrowding, the measures announced by Mr. Aylward in his opening statement were certainly welcome, but there was no guarantee that they would be sufficiently effective remedies, given the scale of the problem in recent years due to the significant increase in the number of detainees. Increasing the capacity of prison establishments was only one part of the solution; action also needed to be taken on the number of persons detained. In that respect, the adoption of the Fines Act 2010 and the amendments to the Criminal Justice (Community Service) Act 1983, which both encouraged the application of alternative measures to detention, were a step in the right direction. It would be interesting to know whether other measures were envisaged to reduce the number of people in detention.

17. The work undertaken to gradually equip all cells with sanitation would not be completed for a number of months and in the meantime a replacement for the practice of slopping out, which was degrading for prisoners, should be found as a matter of urgency. The delegation was invited to explain whether measures to that effect had been taken. The previous Government had launched a project to construct a large prison complex at Thornton Hall that had been due to begin in 2010. It would be useful to know whether the new Government intended to continue with that project, and if so, when the new facility would be operational. The European Committee for the Prevention of Torture and the Irish Human Rights Commission had expressed reservations about the project, noting that large facilities were often difficult to manage and did not respond effectively to the needs of the different population groups that they housed. Comments from the delegation on that subject would be welcome.

18. According to a 2010 report from the Inspector of Prisons, confinement in a special observation cell was often used for purposes other than those expressly set out in the Prison Rules and placement in solitary confinement was not systematically recorded. It would be

useful to know whether concrete measures had been taken to resolve those problems, notably by clarifying the relevant procedures. Regarding violence in prisons, the European Committee for the Prevention of Torture had noted in the report on its visit in 2010 that, despite the measures taken since 2006 to improve prison security, the incidence of violence in Mountjoy Prison remained very high and violent outbreaks of all sorts were a daily occurrence there. The same Committee had also noted that prisoners from the Traveller community were particularly vulnerable to intimidation from other inmates. Information would be appreciated on any action taken to follow up that Committee's recommendations, and in particular on measures to introduce individual needs and risk assessment, to ensure adequate staffing levels and to ensure that all prison staff at every grade received high-quality in-service training, particularly on managing violence among prisoners.

19. She said that she was pleased to note that Irish legislation ensured that minors who came into conflict with the law could be placed in detention only as a last resort, in which case they were primarily sent to children detention schools that were managed by the Irish Youth Justice Service. However, she expressed reservations at the detention of boys aged 16–18 in St. Patrick's Institution, an establishment whose poor conditions of detention had been condemned by the Irish Human Rights Commission and the Ombudsman for Children. The Committee had been informed that Ireland intended to build a detention centre for minors: what stage had that project reached and had a time frame been set for the completion of work and the opening of the centre? As for the conditions of detention in children detention schools, an inspection undertaken in 2008 had revealed that solitary confinement was misused. The Committee would be interested to learn whether measures had been taken to better regulate the use of solitary confinement.

20. It seemed that the authority of the Ombudsman for Children to consider complaints was limited to complaints made by children who were detained in children detention schools. That would mean that children detained in other facilities, such as at St. Patrick's Institution or by immigration services, were unable to address the Ombudsman, in which case it would be important to know whether they had access to another complaints mechanism. Furthermore, it seemed that the public bodies set up to protect and care for children established following the entry into force of the Ombudsman for Children Act 2002 were also excluded from the Ombudsman's mandate, unless expressly designated by the Government. It would therefore be interesting to know whether the Government intended to make use of that provision to extend the Ombudsman's area of competence. The Social Services Inspectorate had recommended that the Irish Youth Justice Service should take measures to ensure that all detained minors had access to and were assisted in using an effective complaints' procedure. Details of the action taken following that recommendation would be appreciated.

21. It was regrettable that the Garda Síochána Ombudsman Commission did not have sufficient resources effectively to investigate all complaints involving members of the police force. The law stipulated that the commission was bound to investigate all cases of death or serious bodily injury suffered in police custody, but less serious matters could be referred to the Garda authorities. However, there were concerns that the Commission's lack of resources could lead it to transfer a significant number of complaints to the Garda, which would seriously compromise the independence of inquiries. The lack of resources clearly prevented the Commission from holding effective inquiries, since they took so long. In that context, it would be interesting to know what measures, legislative or other, the State party intended to take to ensure that all inquiries into allegations of torture or ill-treatment involving members of the Garda Síochána were carried out by the Ombudsman Commission, rather than the Garda itself, and whether additional resources would be allocated to the Commission for that purpose.

22. In his 2010 report, the Inspector of Prisons had indicated that there was no independent complaints mechanism in prisons and that the existing procedures did not conform to best practice in the field. The Inspector had recommended that the Government should create an independent body tasked with investigating detainees' complaints and amend the Prisons Act 2007 and the Prison Rules 2007 to establish a fair and transparent procedure for lodging and considering complaints. It would be interesting to know what follow-up measures had been taken on those recommendations.

23. The lack of an independent inquiry mechanism for deaths that occurred in prison was another cause for concern. Coroners determined the medical cause of death, but were not authorized to investigate the circumstances of death. A commission of investigation had been established to shed light on the death of Gary Douch, who had been detained in Mountjoy Prison. It would be appreciated if the delegation could indicate whether the Commission of Investigation's report would soon be made public and whether there were plans to found an independent inquiry body specifically tasked with investigating deaths that took place in prison. An independent inquiry mechanism should also be established with all the necessary powers to investigate the deaths of children who were under the care of the State and the failures of the child protection system, so that appropriate measures could be found to address those failures.

24. The State party had not provided any information on cases of torture or ill-treatment involving prison staff, despite the fact that the European Committee for the Prevention of Torture's 2010 report gave several examples of prisoners who had been ill-treated by guards and alleged that there had been no real inquiry into those incidents. The Inspector of Prisons had also indicated in his report that the inquiries into the 67 complaints made by prisoners at the Mountjoy complex, which he had received between 1 January 2008 and 14 May 2009, had been unsatisfactory. The delegation of Ireland was invited to comment on the conclusions of those reports and to indicate whether the State party intended to take action to ensure that all allegations of torture or ill-treatment gave rise to an impartial inquiry, in compliance with its obligations under article 12 of the Convention.

25. When the report by the commission investigating the violence to which hundreds of children had been subjected from the 1930s to the 1990s, in religious institutions dependent on the Catholic church, known as the Ryan Report, had been published in May 2009, the Government at the time had committed to implementing all the recommendations made therein. However, it seemed that the majority of those recommendations had gone unheeded. Besides violence, notably sexual violence, and ill-treatment, the report had also denounced the ineffectiveness of the inspection system at the Department of Education, the department responsible for the institutions in question. She asked whether the State party intended to open an independent inquiry into the abuse denounced in the report in order to prosecute and convict those responsible, and what measures were envisaged to ensure that victims received compensation in conformity with article 14 of the Convention. She also asked whether the State party intended to establish an inquiry into the acts of torture and abuse perpetrated in the religious establishments known as Magdalene Laundries, in which tens of thousands of young women had been exploited and ill-treated between 1922 and 1996, and to take steps to guarantee that victims were awarded compensation.

26. The measures taken by the State party to combat domestic violence and violence against women were most welcome. It would be useful for the State party to draw up official, detailed statistics on that form of violence so that the measures implemented could be evaluated effectively and more focused policies developed as needed. The NGO Women's Aid reported that it had received information on over 14,000 incidents of domestic violence since 2009, including numerous cases of sexual abuse and rape. She invited the Irish delegation to comment on that matter and to clarify whether rape within marriage was considered a separate offence under criminal law. The Domestic Violence

Act 1996 stipulated various protective measures that were generally applied at the request of the victim. She wondered whether there were plans to amend the Act so as to specify how those provisions, particularly safety and barring orders were applied. She also wondered what measures were being taken to ensure that women who were victims of violence had access to shelters and rehabilitation services, given that the level of public funds allocated to civil society organizations active in that sphere had fallen considerably.

27. Recalling that the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Commissioner for Human Rights of the Council of Europe had expressed concern at the extremely restrictive conditions under which a woman could legally terminate her pregnancy in Ireland, she asked the delegation to explain under what specific circumstances a woman was legally entitled to an abortion. In many cases, the only alternative available to women who wished to end an unwanted pregnancy was to travel abroad or, for those without the means to do so, to potentially risk their lives by having an illegal abortion. It would be interesting to know what the State party's position was regarding that problem and what solutions were planned to resolve it. Finally, she asked if the State party intended to prohibit the corporal punishment of children in all circumstances.

28. **Mr. Mariño Menéndez** said that, according to both the Irish delegation's introductory statement and the State party's report, the definition of torture in the Criminal Justice Act of 2000 gave the Irish courts full extraterritorial jurisdiction. He asked whether that meant that the courts could hear all cases of torture, even when the suspected perpetrator was not Irish and the acts had been committed outside national territory. If that was the case, he would like to know whether Ireland would request the extradition of a suspected torturer who was abroad.

29. Regarding asylum, clarification of the role played by the Office of the United Nations High Commissioner for Refugees in the consideration of requests for asylum or subsidiary protection would be welcome, as would information on how the relevant authorities assessed the vulnerability of asylum-seekers and the age of accompanied and non-accompanied minors. It would be useful if the State party could indicate whether the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) was used to recognize the symptoms of torture among asylum-seekers. Clarification would also be appreciated of whether asylum-seekers who arrived in Ireland from a country where they could have requested refugee status were automatically returned to that country, in conformity with Council Regulation No. 343/2003 of the Council of the European Union establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (Dublin II Regulation), or whether they were able to appeal. In that respect, more details of the stages of the asylum process described in paragraph 329 of the report would be useful.

30. Additional information on the basic legal guarantees would be welcomed, particularly on the question of whether a person affected by custodial measures, for example an asylum-seeker detained while awaiting the decision of the relevant authorities on his or her asylum claim, could have recourse to habeas corpus in order to challenge the legality of their detention. Furthermore, it would be interesting to know whether a suspect could be placed in isolation during pretrial detention. If that was the case, what was the maximum duration of isolation and what role did the judge play? Similarly, he would welcome data on the maximum length of solitary confinement for a detainee serving a sentence and asked which authority was empowered to review the merits of that measure. According to information before the Committee, the silence of a suspect during questioning, in the presence or absence of counsel, was often interpreted to their

disadvantage. It would be interesting to know whether a suspect's silence had any legal effect, notably on the presumption of innocence.

31. Noting that Ireland would not extradite an individual to a State that practised capital punishment unless that State gave an official guarantee that the individual requested would be neither tortured nor executed, he inquired which authority requested those guarantees and whether the decision to extradite was heard before a court before the individual concerned was handed over.

32. It would be useful to know whether female genital mutilation was defined in domestic legislation as a criminal offence and whether the State party intended to make the declaration provided for under article 22 of the Convention.

33. **Ms. Sveaass** said that, according to information that she had received, approximately 6,000 unaccompanied children had requested asylum in Ireland in the previous 10 years, and 500 of them had disappeared. She asked where unaccompanied minors arriving in the State party were housed, what measures were taken when one of them disappeared and whether any of them were accommodated in places of detention. According to a report by the NGO Spiritan Asylum Services Initiative (SPIRASI), the number of forensic medical reports requested from the organization by the authorities in order to consider asylum claims based on allegations of torture had fallen significantly between 2007 and 2010. Although the number of asylum applications had also fallen over that period, the drop was far less significant. The Irish delegation was invited to clarify that point and to explain how forensic medical reports were used under the asylum procedure or when examining subsidiary protection requests.

34. Turning to the matter of the Magdalene Laundries, while reading a report submitted to the Committee by NGO Justice for Magdalenes (JFM), she had noted that in 2010 the Irish Human Rights Commission had officially recommended that the Government should immediately launch a statutory inquiry into the allegations of abuse committed in the Magdalene Laundries. She asked who would be in charge of the inquiry, when prosecutions would start to be brought and whether all complaints would be taken into consideration, including those from women who had been placed in private institutions. On that matter, she recalled that in the Committee's general comment No. 2 on the implementation of article 2 of the Convention (CAT/C/GC/2), it was emphasized that States parties had an obligation to prohibit and prevent torture, and to award compensation to victims in cases where there was a reasonable basis for thinking that acts of torture or ill-treatment had been inflicted on persons by private-sector or non-State actors. Even if a majority of the acts that took place in the Magdalene Laundries had been committed before the Convention came into force in the State party, it would be highly desirable for the Irish Government to make a gesture toward survivors by offering a public apology, on the one hand, and awarding them compensation in the form of an annuity on the other hand.

35. Regarding psychiatric institutions, the European Committee for the Prevention of Torture and the Irish Human Rights Commission had both remarked in their reports that some hospitalizations were wrongly classified as voluntary, since the patients concerned were not free to leave the institution if they wished. She noted with great concern that the type of confinement could be amended after the patient was hospitalized and changed from "voluntary" to "compulsory". A law prohibiting that practice had been introduced in 2008, although since it had no retroactive effect, its provisions could not be invoked by those who had been confined before its entry into force. Sedatives, which were administered to agitated or violent patients in order to avoid having to take physical restraint measures, were not listed as a restraint measure and their use was therefore not monitored. Comment from the Irish delegation on those causes for concern would be appreciated. Finally, she asked whether the State party was considering issuing a standing invitation for special procedures mandate-holders.

36. **Mr. Bruni**, referring to the State party's implementation of articles 1 and 4 of the Convention, said that the Criminal Justice Act of 2000 defined torture not only as an act, but also as an omission by which severe pain or suffering, physical or mental, was intentionally inflicted on a person. He wondered why the legislator had included a term in the definition of torture that did not appear in article 1 of the Convention and asked for examples of case law in which torture could be directly linked to an omission.

37. Turning to article 2 of the Convention, he asked whether the State party had taken measures to ensure that subordinates who did not want to carry out an order from a superior that was clearly illegal, particularly an order that involved committing an act of torture, could disobey the order and report their superior without fear of reprisals. As for article 3 of the Convention, it would be useful to know whether the Immigration, Residence and Protection Bill 2008 had been adopted, or whether it was still being considered by Parliament.

38. Regarding article 11 of the Convention, it would be useful to know if the Strategic Human Rights Advisory Committee, whose establishment was referred to in paragraph 202 of the report, had unrestricted access to all places of detention and could make unscheduled visits. As for article 12, on reading the report he had noted that the Garda Síochána Ombudsman Commission had received 4,746 complaints, but that only 25 cases had led to disciplinary measures, only 37 cases had been referred to the Director of Public Prosecutions and just 1 had led to a conviction. He requested additional information on the action taken on the remaining 4,683 cases. With regard to article 16, he would appreciate an explanation of the significant increase in the prison population between October 2006 and October 2010, to which the European Committee for the Prevention of Torture drew attention in its report, as well as statistical data on the current occupancy rate of Irish penal institutions.

39. **Ms. Belmir** said she understood that under the Immigration, Residence and Protection Bill 2008 the matter of return was the exclusive domain of the Minister of Justice, and wondered whether its decisions were final or were subject to appeal. Expressing surprise that immigration agents, and in some cases police officers, had the authority to determine the age of minors seeking asylum, she emphasized that the task should be performed by medical experts. It was also surprising that the definition of torture contained in the Criminal Justice Act 2000 indicated that the nationality of a public official responsible for acts of torture was irrelevant, as it used the words "whatever his or her nationality", and clarification on that point would be welcome. The Irish delegation was invited to comment on the increase in the number of people placed in solitary confinement and on the allegations that police performed identity checks solely on the basis of physical appearance and racial bias, and employed methods that violated the dignity of those concerned.

40. **Mr. Gaye** asked whether the differences highlighted by other Committee members between the definition of torture in the first article of the Convention and the definition in the Criminal Justice Act 2000 risked creating a conflict of law. Having read in the report that since it began functioning, the Garda Síochána Ombudsman Commission had never received any complaint that could be considered as relating to torture, he wondered what kind of acts were reported in the 4,746 complaints that had been received.

41. **Mr. Wang Xuexian**, noting the high quality of the report submitted to the Committee by the Irish Human Rights Commission, said that it was a pity that such an active and effective institution would be affected by the budgetary cuts imposed across the public sector due to the financial crisis. Information from NGOs indicated that only 24 of over 2,000 asylum applications had received a positive outcome at the end of the first half of 2010. It would be useful if the delegation could confirm whether those figures were correct, and if so, whether they were part of a broader trend. He also requested statistical

data on the number of asylum claims approved during the second half of 2010 and the first half of 2011.

42. Regarding the Magdalene Laundries, he said that that particular chapter of history had not yet closed and the State should undertake measures to ensure that compensation was granted to those former residents of such institutions that were still alive. Finally, having read in the report that anyone who had information on the possible illegal transfer of suspects was encouraged to bring it to the attention of the Garda Síochána, he noted that such operations were, by their very nature, organized in absolute secrecy and that it was very unlikely that a private citizen would have any information on the matter. It was the responsibility of the State to gather information on such a sensitive issue.

43. **The Chairperson** asked the Irish delegation to clarify the notion of omission that was contained in the definition of torture adopted by the State party. She also asked for details of the criteria used to appoint members of the Garda Síochána Ombudsman Commission and wondered whether former members of the police could be members of the commission. Noting that the case of any person under military jurisdiction who had suffered serious harm, death or who had been fatally injured following acts of torture could be investigated by a commission of inquiry or a coroner's inquest, she expressed surprise that the State party's legislation provided only for the possibility and not the binding obligation to open an inquiry in such circumstances. The delegation was invited to provide information in that regard, as well as examples of cases illustrating judicial practice in that area. Regarding applications for asylum, it would be useful to have fuller, disaggregated statistical data on the number of applications lodged and the number accepted, as well as the number of expulsions and the countries of origin and return.

44. It was regrettable that there was no information on the follow-up to the findings of the Ryan Report, particularly with regard to the prosecution of those responsible for the acts condemned in it, or on the State party's intentions as to any legal proceedings against the Magdalene Laundries. The Irish delegation was invited to provide information and to comment on the handling of those two matters.

45. **Mr. Aylward** (Ireland) said that his delegation had noted the points raised by Committee members with care and interest and would endeavour to reply in as much detail as possible. At that point, he simply wished to emphasize the need to maintain a nuanced perspective on all the issues raised. The matters referred to in the Ryan Report, and the case of the Magdalene Laundries in particular, dated back many years and a number of both victims and perpetrators of the acts condemned were no longer alive. It was difficult to establish the facts at the present time without rewriting history. Regarding the cuts to financing for human rights organizations, it was important to bear in mind that Ireland had experienced a period of very serious economic crisis and that drastic cuts had been imposed on all State organizations. That did not mean, however, that the Government wished to curb activities protecting human rights.

46. *The delegation of Ireland withdrew.*

The public part of the meeting rose at 12.20 p.m.