



# Report of Various Size – Fieldwork research (FRANET)

## Criminal Detention in the EU – Conditions and Monitoring

### Country Report Ireland

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## 1. Cell space

- a) What is the national standard for cell space available to prisoners in m<sup>2</sup>? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- b) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- c) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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#### a) National Standard for Cell Space

The Inspector of Prisons has recommended that single occupancy cells should be at least 7m<sup>2</sup> with at least 2m between the walls. If the cell contains more than one prisoner, there should be at least another 4m<sup>2</sup> per prisoner.<sup>1</sup> The Office of Inspector of Prisons was created by the Prisons Act 2007 to carry out regular inspections of the thirteen prisons in Ireland. The Irish Prison Service has accepted the Inspector's recommendation,<sup>2</sup> and has aligned the bed capacity of nine prisons with the Inspector's figures.<sup>3</sup> Nevertheless, overcrowding continues to occur: the UN Committee against Torture recommended that Ireland take measures to reduce overcrowding, especially among female prisoners.<sup>4</sup>

#### b) Different Standards

The standards set out above are intended to apply to all prison facilities.

#### c) NPM Report

Ireland signed the OPCAT in October 2007 but has yet to ratify it.<sup>5</sup> Ireland has yet to establish a National Preventive Mechanism as required by OPCAT. The UN Committee against Torture was critical of this delay and recommended ratification of OPCAT.<sup>6</sup> The Irish Human Rights and Equality Commission has published research on the implementation of OPCAT,<sup>7</sup> and the Department of Justice and Equality is consulting with

<sup>1</sup> Inspector of Prisons, *The Irish Prison Population: An Examination of Duties and Obligations Owed to Prisoners*, 2010, at section 2.3; *An Assessment of the Irish Prison System*, 2013, at section 2.6, both available at [www.inspectorofprisons.ie](http://www.inspectorofprisons.ie) (accessed 27 May 2018).

<sup>2</sup> See Irish Prison Service, *Three- Year Strategic Plan, 2012-2015*, 2012, Strategic Action 1: Prison Numbers, at 28, available at <http://www.irishprisons.ie/images/pdf/strategicplanfinal.pdf> (accessed 27 May 2018).

<sup>3</sup> Irish Prison Service, *Strategic Plan 2016-2018*, 2016, at section 3.3, available at [http://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/strategic\\_plan\\_2016.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/strategic_plan_2016.pdf) (accessed 27 May 2018).

<sup>4</sup> UN Committee against Torture, *Concluding Observations on the Second Periodic Report of Ireland*, August 2017, at para.16(a), available at [http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT\\_CAT\\_COC\\_IRL\\_28491\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/IRL/INT_CAT_COC_IRL_28491_E.pdf) (accessed 27 May 2018).

<sup>5</sup> *Ibid.*, at para.7(a).

<sup>6</sup> *Ibid.*, at para.8(a).

<sup>7</sup> Murray and Steinarte, *Ireland and the Optional Protocol to the UN Convention against Torture*, IHREC, Dublin, 2017, available at <https://www.ihrec.ie/app/uploads/2017/09/Ireland-and-the-Optional-Protocol-to-the-UN-Convention-against-Torture.pdf> (accessed 27 May 2018).

stakeholders on foot of this research.<sup>8</sup> The Minister for Justice and Equality has indicated that this research and the consultations will inform a new Inspection of Places of Detention Bill which will be the primary mechanism for a National Preventive Mechanism.<sup>9</sup> The Minister later indicated that the consultative phase should be completed by the second quarter of 2018, at which time the Government will consider a draft scheme of the Bill and then seek Cabinet approval for drafting the Bill.<sup>10</sup>

## 2. Sanitary Facilities

- a) What is the national standard with regard to access to toilets? Are these located in cells? If not, do prisoners have access to these facilities without undue delay, even during the night? Do these facilities offer privacy to prisoners who use them?
- b) What is the national standard with regard to access to regularly cleaned shower/bathing facilities? How often is this access provided? Do these facilities offer privacy to prisoners who use them?
- c) Is the provision of cleanly sanitary facilities regulated by any legal instrument such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) *Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).*
- e) *Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>*

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#### a) Prisoner Access to Toilet Facilities

The Prison Rules 2007 provide that in-cell sanitary and washing facilities will be provided as far as practicable, and that if not practicable, then a prisoner “shall have reasonable access” to such facilities.<sup>11</sup> As late as 2008, 682 cells in Mountjoy, Cork, Limerick and Portlaoise Prisons lacked these facilities, with prisoners having to “slop out” each morning (i.e., the emptying of a chamberpot, bucket or chemical toilet).<sup>12</sup> The Inspector of Prisons has recommended that all cells have screened sanitation facilities.<sup>13</sup> In its current strategic plan, the Irish Prison Service states that 98% of all prisoners now have in-cell sanitation facilities.<sup>14</sup> The Service itself has accepted that the “single most pressing objective of estate modernization in recent times has been the need to ensure appropriate in-cell sanitation throughout the estate, and to cease the practice of ‘slopping out’ in prisons

<sup>8</sup> Minister for Justice and Equality, Answer to Parliamentary Query 291 from Deputy Clare Daly, 30 January 2018, available at <http://www.justice.ie/en/JELR/Pages/PQ-30-01-2018-291> (accessed 27 May 2018).

<sup>9</sup> *Ibid.*

<sup>10</sup> Minister for Justice and Equality, Answer to Parliamentary Query 161 from Deputy Clare Daly, 8 February 2018, available at <http://www.justice.ie/en/JELR/Pages/PQ-08-02-2018-161> (accessed 27 May 2018).

<sup>11</sup> Prison Rules 2007, SI No. 252/2007, Rule 24, available at <http://www.irishstatutebook.ie/eli/2007/si/252/made/en/print?q=prison+rules> (accessed 27 May 2018).

<sup>12</sup> Inspector of Prisons, *An Assessment of the Irish Prison System*, 2013, at section 3.2. The Inspector provides an excellent and graphic description of slopping out in four Irish prisons. See Inspector of Prisons, *The Irish Prison Population – An Examination of Duties and Obligations owed to Prisoners*, 2010, at paras. 3.16-3.20. Both reports available from [www.inspectorofprisons.ie](http://www.inspectorofprisons.ie) (accessed 27 May 2018).

<sup>13</sup> Inspector of Prisons, *The Irish Prison Population – An Examination of Duties and Obligations owed to Prisoners*, 2010, at section 2.3, available at [www.inspectorofprisons.ie](http://www.inspectorofprisons.ie) (accessed 27 May 2018).

<sup>14</sup> Irish Prison Service, *Strategic Plan 2016-2018*, 2016, at section 3.1.2, available at [http://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/strategic\\_plan\\_2016.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/strategic_plan_2016.pdf) (accessed 27 May 2018).

without in-cell toilets".<sup>15</sup> The Service is developing plans for new blocks in Limerick and Portlaoise Prisons, which will eliminate the practice of slopping out.<sup>16</sup> The UN Committee against Torture has recommended that these plans be implemented as a priority.<sup>17</sup>

b) Access to Shower/Bathing Facilities

The Prison Rules 2007 provide that a prisoner is to be provided with a hot bath or shower upon committal to prison unless exempted for medical reasons.<sup>18</sup> Thereafter, a prisoner should be permitted to take a hot shower or bath "as often as is reasonably practicable", and is entitled to do so at least once per week.<sup>19</sup> Further, prisoners are to be provided with toilet articles necessary for personal cleanliness at no charge, and to purchase further toiletries in the prison.<sup>20</sup>

c) Instruments

These standards above are set out in the Prison Rules 2007, a statutory instrument issued by the Minister for Justice and Equality under the authority of section 35 of the Prisons Act 2007.

d) Different Standards

The standards set out above are intended to apply to all prison facilities.

e) See 1(c) above.

### 3. Time out of cell

- a) What is the national standard set for time per day/week spent by prisoners outside of their cells:
  - a. Outdoors (within the boundary of the prison)?
  - b. Indoors in the common area?
- b) Are sports or other recreational and educational facilities available to prisoners? If so what types?
- c) Is time spent in cells regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) *Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).*
- e) *Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>*

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a) Time out of Cells

The Prison Rules 2007 specify that prisoners "shall be allowed to spend as much time each day out of [their] cell[s] as is practicable".<sup>21</sup> At a minimum, prisoners generally should be permitted to spend at least two hours out of their cells with an "opportunity during that time for meaningful human contact".<sup>22</sup> Meaningful human contact is defined to mean "interaction between a prisoner and another person of sufficient proximity so as to

<sup>15</sup> Irish Prison Service, *Capital Strategy, 2016-2018*, 2016, at 21, available at [http://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/capital\\_strategy\\_2016.pdf](http://www.irishprisons.ie/wp-content/uploads/documents_pdf/capital_strategy_2016.pdf) (accessed 27 May 2018).

<sup>16</sup> *Ibid.*

<sup>17</sup> UN Committee against Torture, *Concluding Observations on the Second Periodic Report of Ireland*, August 2017, at para.16(e).

<sup>18</sup> Prison Rules 2007, SI No. 252/2007, Rule 12.

<sup>19</sup> *Ibid.*, at Rule 25(2).

<sup>20</sup> *Ibid.*, at Rule 25(3) and (4).

<sup>21</sup> Prison Rules 2007, SI No. 252/2007, Rule 27(1)(b).

<sup>22</sup> *Ibid.*, at Rule 27(1)(a).

allow both to communicate by way of conversation”.<sup>23</sup> The Inspector of Prisons has noted that these standards have not always been met; he pointed to Castlereagh Prison, for example, in which staff shortages resulted in lockdowns that kept some prisoners in their cells for 23 hours per day.<sup>24</sup>

b) Sports, Recreational and Educational Facilities

The Prison Rules 2007 provide that a prisoner may engage in authorized structured activity, “including work, vocational training, education, or programmes intended to ensure that a prisoner, when released from prison, will be less likely to reoffend or better able to reintegrate into the community”.<sup>25</sup> Each prisoner should be engaged as far as possible in such activity for at least five hours on each day for five days each week.<sup>26</sup> The precise facilities vary from prison to prison. The Inspector of Prisons noted in 2010, for example, in Arbour Hill Prison (in which most prisoners have been convicted of sexual crimes), prisoners had educational facilities, a library, a gym, a variety of workshops, and various work details.<sup>27</sup> Castlereagh Prison has different facilities in each of its three blocks. In the older parts, prisoners theoretically had access to educational classes, a library, a gym, workshops and work details, but the workshops and the library were often closed.<sup>28</sup> The Inspector concluded that, at least in 2010 (the most recent report), Castlereagh Prison did not have adequate structured activity for its population.<sup>29</sup>

The Irish Prison Service has accepted the need to provide facilities for education, work training, recreation and faith as part of the Service’s obligation to provide prisoner care.<sup>30</sup> However, the Service has indicated that there has been a tradeoff between the provision of these facilities and the provision of sufficient capacity and in-cell sanitation, with the latter taking priority.<sup>31</sup> Furthermore, the Inspector of Prisons commented that overcrowding would often result in facilities being unavailable to prisoners.<sup>32</sup> And building facilities did not necessarily mean that those facilities were available; he pointed to workshop facilities in Portlaoise Prison which had been built but not commissioned.<sup>33</sup> The Prison Service has committed itself to improving employment opportunities for offenders, partly through increased productivity of prison work training facilities.<sup>34</sup>

c) Legal Instruments

The standards above are set out in the Prison Rules 2007, but the Prison Service policies and commitments are drawn from the documents specified.

d) Different Standards

The standards set out above are intended to have general application throughout the Irish prison estate.

e) Link to NPM Report

See above, 1c.

#### 4. Solitary confinement

<sup>23</sup> *Ibid.*, at Rule 27(4).

<sup>24</sup> Inspector of Prisons, *The Irish Prison Population – An Examination of Duties and Obligations owed to Prisoners*, 2010, at para.7.10.

<sup>25</sup> Prison Rules 2007, SI No.252/2007, at Rule 27(2).

<sup>26</sup> *Ibid.*, at Rule27(3).

<sup>27</sup> Inspector of Prisons, *The Irish Population – An Examination of Duties and Obligations owed to Prisoners*, 2010, at para.6.5.

<sup>28</sup> *Ibid.*, at para.7.8.

<sup>29</sup> *Ibid.*, at para.7.17.

<sup>30</sup> Irish Prison Service, *Capital Strategy, 2016-2021*, 2016, at 22.

<sup>31</sup> *Ibid.*

<sup>32</sup> Inspector of Prisons, *The Irish Prison Population – An Examination of Duties and Obligations owed to Prisoners*, 2010, at para. 3.11.

<sup>33</sup> *Ibid.*, at para. 3.13.

<sup>34</sup> Irish Prison Service, *Strategic Review 2016-2018*, 2016, at Action 2.10.

- a) What is the national standard set regarding solitary confinement? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- b) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- c) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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a) National Standard regarding Solitary Confinement.

Solitary confinement (i.e., confinement in a cell) is permitted in respect of breaches of prison discipline, but section 13(1)(c) of the Prisons Act 2007 provides that such confinement shall not exceed three days. The Irish Penal Reform Trust points out, however, that other sanctions can be imposed for longer periods that will have an effect akin to solitary confinement.<sup>35</sup>

Rule 62 of the Prison Rules 2007 governs the implementation of an isolation regime on a prisoner. A prison governor may direct that a prisoner be prohibited from engaging in authorized structured activities, participating in communal recreation, or associating with other prisoners. Any such direction must be based upon information that raises a reasonable belief that the prisoner would otherwise constitute a “significant threat to the maintenance of good order or safe and secure custody”.<sup>36</sup> The governor’s order may remain in force only for as long as is necessary to achieve these objectives,<sup>37</sup> and must be reviewed at least every seven days.<sup>38</sup> The governor must inform the prison doctor and a chaplain of the prisoner’s denomination, both of whom may visit the prisoner.<sup>39</sup> The doctor is obligated to visit the prisoner as soon as possible and to keep his medical condition under review.<sup>40</sup> If the order is to remain in force for more than twenty-one days, a report must be given to the Director General of the Irish Prison Service who must authorise any continuation of the order.<sup>41</sup>

Prisoners are generally entitled to at least two hours out of their cells per day, but this entitlement is expressly made subject to the requirements of prison discipline covered by Part 4 of the Prison Rules 2007 (which includes Rule 62).<sup>42</sup> Rule 62 is subject to Rule 32, however, which provides that all prisoners are entitled to at least one hour of exercise in the open air per day. The Irish Prison Service has made the following commitment:

We are committed to reducing the use of solitary confinement to only extreme cases and where absolutely necessary for security, safety or good order reasons and for the shortest possible time. We ensure that in such cases prison management has in place an individual management plan for each prisoner and access to appropriate services is provided as far as possible and that the mental health of the prisoner is regularly reviewed.<sup>43</sup>

<sup>35</sup> Irish Penal Reform Trust, *‘Behind the Door’: Solitary Confinement in the Irish Penal System*, 2018, at 33, available at [http://www.iprt.ie/files/Solitary\\_Confinement\\_web.pdf](http://www.iprt.ie/files/Solitary_Confinement_web.pdf) (accessed 27 May 2018). The Trust points to a variety of prohibitions such as restrictions on recreational activities, receiving visits, sending or receiving letters, and using the telephone.

<sup>36</sup> Prison Rules 2007, SI No. 252/2007, at Rule 62(2).

<sup>37</sup> *Ibid.*, at Rule 62(3).

<sup>38</sup> *Ibid.*, at Rule 62(4).

<sup>39</sup> *Ibid.*, at Rule 62(7) and (8).

<sup>40</sup> *Ibid.*, at Rule 62(7).

<sup>41</sup> *Ibid.*, at Rule 62(9).

<sup>42</sup> Prison Rules 2007, Rule 27(1), as inserted by Prison (Amendment) Rules 2017, SI No. 276/2017 (available at <http://www.irishstatutebook.ie/eli/2017/si/276/made/en/print?q=prison+rules> (accessed 27 May 2018)).

<sup>43</sup> Irish Prison Service, *Strategic Review 2016-2018*, 2016, at 6.

The Service has introduced a policy to incorporate the Mandela Rules into the prison system for prisoners on restrictive regimes.<sup>44</sup> The Minister for Justice and Equality recently indicated that the number of prisoners in the country on 22/23-hour lockdown fell from 211 in 2013 to 9 in 2017.<sup>45</sup> Figures collected by the Irish Penal Reform Trust, however, show that the number of prisoners on lengthy lockdown (i.e., in cell from 19-23 hours per day) rose from 339 in July 2013 to 428 in October 2017.<sup>46</sup> The Trust cites figures that indicate that some prisoners have been held on such regimes for more than a year.

Finally, under Rule 63, vulnerable prisoners may be segregated from the general population, and this may be at the prisoner's own request. Such segregation will be permitted where there is a reasonable belief that other prisoners may harm the applicant. Rule 64 allows for the placement of a prisoner in a Safety Observation Cell for up to 24 hours (in the first instance) in order to prevent him or her from causing imminent injury to himself and other less restrictive methods are inadequate. Such prisoners must be observed by prison staff at 15-minute intervals.<sup>47</sup> Exceptionally, the detention may be extended for up to five days, after consultation with a doctor and with the approval of the Director General of the Prison Service.<sup>48</sup> Rule 64(13) provides that these cells may not be used for punitive purposes. It is also possible for a violent and distressed prisoner to be held in a close supervision cell for up to five days with the approval of the Director General.<sup>49</sup>

The Irish Prison Service has issued a policy document on the elimination of solitary confinement.<sup>50</sup> In line with Rules 44 and 45 of the Mandela Rules, all prisoners are to have at least two hours out-of-cell per day with the facility for meaningful human contact,<sup>51</sup> subject to emergency situations that may require a temporary suspension of this policy.<sup>52</sup> Nevertheless, a Governor still has power to take immediate protective action to maintain order and discipline,<sup>53</sup> which may involve locking down a prisoner for more than 22 hours per day. Any such situations are to be recorded and notified to the Prison Service's Director of Operations.<sup>54</sup> The Prison Service reports that in April 2018, a total of 514 prisoners were held on a restricted regime, with 12 prisoners being held on a 22-23 hour lockdown.<sup>55</sup> By far the most common basis for such a regime is Rule 63, accounting for 487 (95%); of these, 475 were voluntary (i.e., at the prisoner's request).<sup>56</sup>

b) Different Standards

The standards set out above are intended to have general application throughout the Irish prison estate.

c) Link to NPM Reports

See above, 1c.

<sup>44</sup> Irish Prison Service, *Policy Document: Elimination of Solitary Confinement*, 2017, available at [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/Elimination-of-solitary-confinement-Policy.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/Elimination-of-solitary-confinement-Policy.pdf). The Mandela Rules are the colloquial name for the UN Standard Minimum Rules for the Treatment of Prisoners, 2015 Revision.

<sup>45</sup> Minister for Justice and Equality, Press Release, 2 February 2018. See also, Reply to Parliamentary Query 266, from Clare Daly, T.D., 5 December 2017, available at <http://www.justice.ie/en/JELR/Pages/PQ-05-12-2017-266> (accessed 27 May 2018).

<sup>46</sup> Irish Penal Reform Trust, *'Behind the Door': Solitary Confinement in the Irish Penal System*, 2018, at 36 (Table 1).

<sup>47</sup> Prison Rules 2007, at Rule 64(5).

<sup>48</sup> *Ibid.*, at Rule 64(6) and (7).

<sup>49</sup> Irish Penal Reform Trust, *'Behind the Door': Solitary Confinement in the Irish Penal System*, 2018, at 32.

<sup>50</sup> Irish Prison Service, *Policy for Elimination of Solitary Confinement*, 2017.

<sup>51</sup> *Ibid.*, at 1.

<sup>52</sup> *Ibid.*, at section 4.7.

<sup>53</sup> *Ibid.*, at section 4.8.

<sup>54</sup> *Ibid.*, at section 4.10.

<sup>55</sup> Irish Prison Service, *Census of Restricted Regime Prisoners, April 2018*, 2018, available at [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/April-2018-Restriction.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/April-2018-Restriction.pdf) (accessed 27 May 2018)

<sup>56</sup> *Ibid.*, at 4 (Table 2).

## 5. Access to healthcare

- a) What is the national standard with regard to access to medical services in prisons? (E.g. do prisoners have prompt access to medical services within prisons or externally? Do prisoners have access to dentists and opticians?)
- b) Are there any special provisions relating to the provision of specialist care? (E.g. for long-term diseases, for sick and elderly prisoners, the mentally ill, drug addicted prisoners etc.)
- c) Is access to healthcare in prisons regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) Please indicate whether there are different standards applicable to different detention regimes.
- e) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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#### a) Access to Medical Services

The Irish courts have confirmed that prisoners have a constitutional right to bodily integrity, which requires that the executive – in whose care prisoners reside – must protect their health as well as practicable.<sup>57</sup> This has been held to include psychological health.<sup>58</sup>

Rule 33(1) of the Prison Rules, 2007 provides that “each prisoner shall be entitled, while in prison, to the provision of healthcare of a preventative, curative and rehabilitative nature ... that is, at least, of the same or a similar standard as that available to persons outside of prison who are the holders of a medical card”. Pregnant female prisoners are to be facilitated in giving birth outside the prison.<sup>59</sup> Healthcare professionals are required under Rule 100 to “treat prisoners with the same dignity and respect as would be afforded to any patient who is not a prisoner”, and to deal with a prisoner’s healthcare information in the same way as for non-prisoners.<sup>60</sup> Prisoners have a general right to refuse medical treatment and tests unless such procedures are required under the Prison Rules.<sup>61</sup>

In 2011, the Irish Prison Service published its Health Care Standards which are intended to “guide the provision of healthcare services to prisoners”.<sup>62</sup> All prisoners are to be medically assessed upon reception into prison, which will involve a clinical assessment within the first 24 hours.<sup>63</sup> Prisoners have the right to refuse the examination and will be required to sign a disclaimer to that effect.<sup>64</sup>

#### b) Access to Specialist Health Care

<sup>57</sup> *Mulligan v. Governor of Portlaoise Prison* [2010] IEHC 269, available at <http://www.courts.ie/Judgments.nsf/0/70EDCE35D14D515A80257761003BE166> (accessed 27 May 2018)

<sup>58</sup> *Kinsella v. Governor of Mountjoy Prison* [2011] IEHC 235, available at <http://www.courts.ie/Judgments.nsf/0/03EAD4B8AB76869A802578B8005B420A> (accessed 27 May 2018)..

<sup>59</sup> Prison Rules, 2007, at Rule 33(2).

<sup>60</sup> *Ibid.*, at Rule 100(1)(c) and (d).

<sup>61</sup> *Ibid.*, at Rule 100(1)(g). Rule 33(3) provides that prisoners will “not be subjected to, or required to, or participate in any experiment or trial of a produce or process”.

<sup>62</sup> Irish Prison Services, *Health Care Standards*, 2011, available at [http://www.irishprisons.ie/wp-content/uploads/documents/hc\\_standards\\_2011.pdf](http://www.irishprisons.ie/wp-content/uploads/documents/hc_standards_2011.pdf) (accessed 27 May 2018).

<sup>63</sup> *Ibid.*, Standard 1.

<sup>64</sup> *Ibid.*, Standard 1.1.8.



The Health Care Standards reiterate the statutory requirement to provide prisoners with a standard of healthcare equal to that available in the general community.<sup>65</sup> To that end, suitable and properly equipped accommodation and facilities will be provided, and “[a]ccess to specialist services appropriate to the health care needs of prisoners will be provided within the prison”.<sup>66</sup> Access to such specialist services will also be on the same basis as would apply to anyone holding Medical Cards.<sup>67</sup> Standard 2.2 provides that “[p]risoners will be referred to external specialist services as clinically indicated”. If emergency attendance at an external hospital is required, it will be “effected with appropriate urgency”.<sup>68</sup> Standard 8 provides that prisoners will have access to the services of a qualified dentist. Any prisoner requesting treatment should be seen within a reasonable period of time. Prisons will make suitable arrangements for the “provision of appropriate mental health services, including consultant psychiatric and other related services”.<sup>69</sup> And prisons are required to “provide clinical services for the assessment, treatment, and care of substance misusers comparable to those available in the community”.<sup>70</sup>

c) Instruments

The standards set out above are contained in the Prison Rules 2007 and the Irish Prison Service’s Health Care Standards.

d) Different Standards

The standards set out above are intended to be of general application throughout the Irish prison estate.

e) Link to NPM Report

See above, 1c.

## 6. Special measures in place to protect juvenile prisoners.

- a) Are there any legal instruments, such as a legislative act, internal prison regulations, manuals, policy papers etc. regulating the separation of juvenile prisoners from adults? (e.g. a separate juvenile ward, or part of the building, canteen, common area etc.?)
- b) What age category falls under this specific juvenile prison regime?
- c) *Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).*
- d) *Please, provide a link to the National Preventive Mechanism’s reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>*

**Please cite any relevant sources**

a) Separation of Juvenile Offenders

Most juvenile offenders have been held in Children Detention Schools, so designated under the Children Act 2001. These Schools are the responsibility of the Irish Youth Justice Service, and consist of Trinity House School, Oberstown Boys School and Oberstown Girls School, all located at Oberstown, Lusk, Co. Dublin. The

<sup>65</sup> *Ibid.*, Standard 2.

<sup>66</sup> *Ibid.*

<sup>67</sup> *Ibid.*, Standard 2.3.2.

<sup>68</sup> *Ibid.*, Standard 2.2.5.

<sup>69</sup> *Ibid.*, Standard 3.1.1.

<sup>70</sup> *Ibid.*, Standard 9.

2001 Act provides that the purpose of these schools is to provide care, education, training and other programmes with a view to reintegrating the children into society.

Male offenders aged 16 and 17 used to be housed in St. Patrick's Institution, but in 2012 the minister for Children and Youth Affairs indicated that she intended to end this practice.<sup>71</sup> The Government allocated €50 million to develop a new National Children Detention facility at Oberstown, involving the building of six new detention units with associated facilities. The completion date was 2015, and the Prisons Act 2015 gave the Minister for Justice the power to close St. Patrick's Institution. This was finally accomplished on 7 April 2017.<sup>72</sup>

b) Age Category

By virtue of the Children Act 2001, a child is a person who has not reached his or her 18<sup>th</sup> birthday.

c) Different Standards

These standards are intended to have general application.

d) Link to NPM Report

See above, 1c.

### 7. Special measures in place to protect prisoners from violence

- a) Are any special measures in place to protect prisoners against violence, including sexual violence? (E.g. are prisoners supervised by prison staff? Are there emergency call buttons? Do guards receive training in de-escalation? Do prisoners have access to a complaints mechanism?)
- b) Are there any special measures in place to protect LGBTI prisoners, who are particularly vulnerable to violence/sexual violence?
- c) Are these measures regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.)..
- e) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English) These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of--designated-npmb-by-regions-and-countries/>

**Please cite any relevant sources**

a) Special Measures to Protect against Violence

The general rules of the criminal law, including those concerning unlawful violence, apply within prisons to the same extent as in the general community. Therefore, anyone who commits an act of violence against a prisoner – be it another prisoner or a Prison Officer – commits an offence that can result in a criminal prosecution. In addition, the Prison Rules indicate that each prison cell “shall be fitted with a mechanism by which a prisoner locked inside may attract the attention of a prison officer and such mechanism shall be capable of being operated by such a prisoner at all times”.<sup>73</sup> In February 2018, the Minister for Justice and Equality pointed to a variety of measures taken by the Irish Prison Service to reduce the possibility of prison violence: use of hand-

<sup>71</sup> Department of Children and Youth Affairs, Press Release, 2 April 2012, available at <https://www.dcy.gov.ie/viewdoc.asp?Docid=1842&CatID=11&mn=&StartDate=1+January+2012> (accessed 27 May 2018)

<sup>72</sup> Department of Justice and Equality, Press Release, “Tánaiste announces closure of St. Patrick's Institution”, 6 April 2017, available at <http://www.justice.ie/en/JELR/Pages/PR17000117> (accessed 27 May 2018)

<sup>73</sup> Prison Rules, 2007, at Rule 18(4).

held metal detectors, netting over prison yards, “boss chairs”, and security screening machines to detect and prevent weapons from entering the prisons.<sup>74</sup>

#### *Grievance Procedure*

The Prison Rules also establish a grievance procedure, under which a Governor will meet with a prisoner as soon as practicable when so requested by the prisoner.<sup>75</sup> At such a meeting, the prisoner may make a complaint and the Governor is obliged to notify the prisoner of his decision as soon as possible.<sup>76</sup> Prisoners are also entitled to request a meeting with the Inspector of Prisons, and the Governor is obliged to forward that request without undue delay.<sup>77</sup> Alternatively, a prisoner may seek a meeting with an officer of the Minister for Justice and Equality, and again the Governor is obliged to forward that request without delay.<sup>78</sup> A ministerial officer, nominated by the Director General of the Irish Prison Service, will meet the prisoner as soon as possible,<sup>79</sup> and this meeting will take place within the view but out of the hearing of prison staff.<sup>80</sup> The ministerial officer may make a recommendation to the Governor,<sup>81</sup> who must notify the Minister of his reasons if he refuses to give full effect to the recommendation.<sup>82</sup>

The Prison Rules (Amendment) 2013 introduced a further procedure to enable a prisoner to make a complaint about a criminal offence.<sup>83</sup> Any allegation of a crime by a prisoner shall be notified to both the Governor and An Garda Síochána.<sup>84</sup> The Governor is obliged to keep a detailed record of the complaint, and to assemble relevant evidence including CCTV recordings, and to arrange for the prisoner to be interviewed and a record kept of any injuries.<sup>85</sup> Further, a specific procedure exists in the event of a complaint of assault or excessive force against a prisoner, or ill treatment, racial abuse, discrimination, intimidation, threats or other misconduct likely to bring discredit upon the Prison Service.<sup>86</sup> All evidence must be secured,<sup>87</sup> and the complaint and evidence must be referred within seven days to the Director General of the Prison Service and notified to the Inspector of Prisons.<sup>88</sup> The Director General will appoint an investigating team unless he is satisfied that the complaint is vexatious.<sup>89</sup> The purpose of the investigation is to determine whether there are grounds for the complaint.<sup>90</sup> All prison staff are duty-bound to cooperate with the investigation.<sup>91</sup> The resulting report will be sent to the Governor and the

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<sup>74</sup> Statement by Minister for Justice and Equality in relation to the launch of the Irish Penal Reform Trust (IPRT) Report on Solitary Confinement in the Irish Penal System, 2 February 2018, available at [http://www.justice.ie/en/JELR/Pages/Statement by Minister for Justice and Equality, Charlie Flanagan in relation to the launch of the Irish Penal Reform Trust \(IPRT\) Report on Solitary Confinement in the Irish Penal System](http://www.justice.ie/en/JELR/Pages/Statement%20by%20Minister%20for%20Justice%20and%20Equality,%20Charlie%20Flanagan%20in%20relation%20to%20the%20launch%20of%20the%20Irish%20Penal%20Reform%20Trust%20(IPRT)%20Report%20on%20Solitary%20Confinement%20in%20the%20Irish%20Penal%20System) (accessed 27 May 2018).

<sup>75</sup> Prison Rules, 2007, at Rule 55(1).

<sup>76</sup> *Ibid.*, at Rule 55(2).

<sup>77</sup> *Ibid.*, at Rule 56.

<sup>78</sup> *Ibid.*, at Rule 57(1).

<sup>79</sup> *Ibid.*, at Rule 57(2).

<sup>80</sup> *Ibid.*, at Rule 57(3).

<sup>81</sup> *Ibid.*, at Rule 57(4).

<sup>82</sup> *Ibid.*, at Rule 57(5).

<sup>83</sup> SI No. 11/2013. These new rules were introduced as a result of two reports from the Inspector of Prisons. See Inspector of Prisons, *Guidance on Best Practice relating to Prisoners' Complaints and Prison Discipline*, 2010, and *Suggested Prisoner Complaints Model for Irish Prisons*, 2012. Both are available at [www.inspectorofprisons.ie](http://www.inspectorofprisons.ie).

<sup>84</sup> Prison Rules, 2007, at Rule 57A, as inserted by the (Amendment) 2013, at Rule 2.

<sup>85</sup> *Ibid.*, at 57A(2).

<sup>86</sup> *Ibid.*, at Rule 57B(1).

<sup>87</sup> *Ibid.*, at Rule 57(B)(3).

<sup>88</sup> *Ibid.*, at Rule 57(B)(4).

<sup>89</sup> *Ibid.*, at Rule 57(B)(5).

<sup>90</sup> *Ibid.*, at Rule 57(B)(6).

<sup>91</sup> *Ibid.*, at Rule 57(B)(7).

Director General, with a copy being sent to the Inspector of Prisons.<sup>92</sup> The prisoner has a right of complaint if he is dissatisfied with the conclusion of the report.<sup>93</sup>

To implement these complaints procedures, the Irish Prison Service issued a policy document in 2015.<sup>94</sup> In a 2016 review, the Inspector of Prisons concluded that there had been a “litany of failures” at all levels of the Irish Prison Service which rendered the procedure ineffectual.<sup>95</sup> The procedure did not have the confidence of prisoners, prison staff or the public. The Inspector recommended that prisoners be able to make a complaint to a judicial or other authority<sup>96</sup> (citing the UN Mandela Rules<sup>97</sup>), and suggested that this authority be the Ombudsman.<sup>98</sup> The prisoners should, however, have to exhaust internal prison complaints’ procedures first.<sup>99</sup> Each prison should put in place a robust investigative mechanism to deal with serious allegations.<sup>100</sup> All investigations must follow fair procedures,<sup>101</sup> and all relevant prison staff should receive relevant and adequate training in the complaints process.<sup>102</sup> For its part, the Irish Prison Service has committed itself to taking into account the Mandela Rules in its prisons.<sup>103</sup>

b) Protection of LGBT Prisoners

The Irish Prison Service has committed itself to providing a “safe and inclusive environment for all minority groups”.<sup>104</sup> Specifically, the Service will establish a working group to prepare a new policy for LGBT prisoners,<sup>105</sup> and will take account of a recent report on the issue from the Irish Penal Reform Trust.<sup>106</sup> This report recommended that the Service develop policies “to protect LGBT prisoners from harm”.<sup>107</sup>

c) Different Standards

The standards set out above are intended to have general application.

d) Link to NPM Report

See above, 1c.

<sup>92</sup> *Ibid.*, at Rule 57(B)(10).

<sup>93</sup> *Ibid.*, at Rule 57(B)(11).

<sup>94</sup> Irish Prison Service, *Policy for Prisoner Complaints*, 2015, available at [http://www.irishprisons.ie/images/policy/prisoner\\_complaints\\_policy2.pdf](http://www.irishprisons.ie/images/policy/prisoner_complaints_policy2.pdf) (accessed 27 May 2018).

<sup>95</sup> Inspector of Prisons, *Review, Evaluation and Analysis of the IPS Prisoner Complaints Procedure*, 2016, at para.7.2.

<sup>96</sup> *Ibid.*, at Recommendation 1.

<sup>97</sup> The United Nations Standard Minimum Rules for the Treatment of Prisoners (2015 Revision), A/RES/70/175, adopted by the General Assembly on 17 December 2015.

<sup>98</sup> Inspector of Prisons, *Review, Evaluation and Analysis of the IPS Prisoner Complaints Procedure*, 2016, at Recommendation 2, available at [www.inspectorofprisons.ie](http://www.inspectorofprisons.ie) (accessed 27 May 2018). The Office of the Ombudsman was established in 1984 to deal with complaints from individuals about their dealings with Government departments and State agencies.

<sup>99</sup> *Ibid.*, at Recommendation 3.

<sup>100</sup> *Ibid.*, at Recommendation 5.

<sup>101</sup> *Ibid.*, at Recommendation 10.

<sup>102</sup> *Ibid.*, at Recommendation 11.

<sup>103</sup> Irish Prison Service, *Strategic Review, 2016-2018*, 2016, at Goal 2.9.

<sup>104</sup> *Ibid.*, at Goal 2.8.

<sup>105</sup> *Ibid.*

<sup>106</sup> Irish Penal Reform Trust, *Out on the Inside: The Rights, Experiences and Needs of LGBT Persons in Prison*, Dublin, 2016, available at [http://www.iprt.ie/files/IPRT\\_Out\\_on\\_the\\_Inside\\_2016\\_EMBARGO\\_TO\\_1030\\_Feb\\_02\\_2016.pdf](http://www.iprt.ie/files/IPRT_Out_on_the_Inside_2016_EMBARGO_TO_1030_Feb_02_2016.pdf) (accessed 27 May 2018)

<sup>107</sup> *Ibid.*, at 36.

## 8. Responsible authorities

- a) What authority is responsible for the provision of additional information requested under Article 15 of the EAW Framework Decision? *(Please specify whether there a central authority deals with these requests, if yes, please provide contact details, such as the name of the institution, a website, physical and email addresses, and a telephone number. In the absence of a central authority, who deals with those requests?)*
- b) What authority is responsible for monitoring conditions of detention and putting forward recommendations?

***Please cite any relevant sources***

a) Authority Responsible for Provision of Additional Information under Article 15 of the EAW Framework  
By virtue of section 6 of the European Arrest Warrant Act 2003, the Minister for Justice and Equality has been designated the Central Authority in the State for the purposes of the EAW system.<sup>108</sup> The address is Department of Justice and Equality, Old Faculty Building, Shelbourne Road, Dublin 4. The telephone number is 00353 1 602 8589; the email is [extradition@justice.ie](mailto:extradition@justice.ie), and the website is [www.justice.ie](http://www.justice.ie).

b) Authority responsible for monitoring conditions of detention.

The Inspector of Prisons, established by section 31 of the Prisons Act 2007, has responsibility of carrying out regular inspections of the thirteen prisons in the State, and to present an Annual Report to the Minister for Justice and Equality. In carrying out this function, the Inspector has access to all areas of these prisons.<sup>109</sup> See the Inspector's website, at [www.inspectorofprisons.ie](http://www.inspectorofprisons.ie).

<sup>108</sup> See also Department of Justice, *The European Arrest Warrant: A Guide to Irish Procedures*, Dublin: 2006, available at <http://www.justice.ie/en/JELR/Pages/WP15000130> (accessed 27 May 2018).

<sup>109</sup> Prisons Act 2007, sections 30-32, available at <http://www.irishstatutebook.ie/eli/2007/act/10/enacted/en/html?q=prisons+act+2007> (accessed 27 May 2018).