

Country File
IRELAND



Last updated: **July 2009**

Region	Europe
Legal system	Common Law
UNCAT Ratification/ Accession (a)/ Succession (d)	11 April 2002
Relevant Laws	<ul style="list-style-type: none"> • Criminal Justice (United Nations Convention against Torture) Act of 2000 (Act No. 11, 2000)
Relevant Articles	<ul style="list-style-type: none"> • Prohibition of Torture: • Definition of Torture: Section 1 of the Criminal Justice Act • Penalties: Sections 2 and 3 of the Criminal Justice Act • Others: <ol style="list-style-type: none"> 1. Extradition: Section 4 of the Criminal Justice Act 2. Jurisdiction: Sections 2 and 3 of the Criminal Justice Act 3. Participation in torture: Section 3 of the Criminal Justice Act 4. Lawful Sanctions: Section 1 of the Criminal Justice Act
Languages Available	<ul style="list-style-type: none"> • English (official language)
Other Relevant Information	Full text of the law is available at http://www.gov.ie/en/

Relevant Articles – IRELAND

ENGLISH

Criminal Justice (United Nations Convention against Torture) Act of 2000 (Act No. 11, 2000)

Section 1 Interpretation

(1) In this Act—

“the Act of 1965” means the Extradition Act, 1965;

“the Act of 1973” means the Genocide Act, 1973 ;

“the Act of 1987” means the Extradition (European Convention on the Suppression of Terrorism) Act, 1987;

“the Convention” means the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by resolution 39/46 of the General Assembly of the United Nations on 10 December 1984, the text of which, in the English language, is, for convenience of reference, set out in the *Schedule* to this Act;

“the Minister” means the Minister for Justice, Equality and Law Reform;

“the offence of torture” shall be construed in accordance with *section 2* of this Act;

“public official” includes a person acting in an official capacity;

“torture” means an act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person—

(a) for such purposes as—

(i) obtaining from that person, or from another person, information or a confession,

(ii) punishing that person for an act which the person concerned or a third person has committed or is suspected of having committed, or

(iii) intimidating or coercing that person or a third person, or

(b) for any reason that is based on any form of discrimination, but does not include any such act that arises solely from, or is inherent in or incidental to, lawful sanctions.

(2) Any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by or under any other enactment including this Act.

Section 2 Offence of torture

(1) A public official, whatever his or her nationality, who carries out an act of torture on a person, whether within or outside the State, shall be guilty of the offence of torture.

- (2) A person, whatever his or her nationality, other than a public official, who carries out an act of torture on another person, whether within or outside the State, at the instigation of, or with the consent or acquiescence of, a public official shall be guilty of the offence of torture.
- (3) A person guilty of the offence of torture shall be liable on conviction on indictment to imprisonment for life.

Section 3 Related Offences

A person, whatever his or her nationality, whether within or outside the State, who—

- (a) attempts to commit or conspires to commit the offence of torture, or
- (b) does an act with the intent to obstruct or impede the arrest or prosecution of another person, including a person who is a public official, in relation to the offence of torture,

shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life.

Section 4 Prohibition on expulsion or refoulement of person to another state where he or she may be tortured

- (1) A person shall not be expelled or returned from the State to another state where the Minister is of the opinion that there are substantial grounds for believing that the person would be in danger of being subjected to torture.
- (2) For the purposes of determining whether there are such grounds, the Minister shall take into account all relevant considerations including, where applicable, the existence in the state concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Section 5 Proceedings under Act

- (1) Proceedings for an offence under this Act may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place.
- (2) Where a person is charged with an offence under this Act, no further proceedings in the matter (other than a remand in custody or on bail) shall be taken except by or with the consent of the Director of Public Prosecutions.
- (3) No proceedings shall be taken under section 38 of the Act of 1965 in respect of an act that constitutes an offence under—
 - (a) that section, and
 - (b) this Act.
- (4) A person charged with an offence under this Act shall be tried by the Central Criminal Court.

Section 6 Amendment of Defence Act, 1954

The Defence Act, 1954, is hereby amended—

- (a) in section 169 (as amended by section 7 of the Criminal Justice Act, 1990), by the insertion in subsection (3) after paragraph (d) of the following:

“(dd) if he is convicted of an offence under the *Criminal Justice (United Nations Convention against Torture) Act, 2000*, be liable to imprisonment for life.”, and

(b) in section 192, by—

- (i) the insertion in subsection (2)(c) after “or genocide” (inserted by section 5 of the Act of 1973) of “or an offence under the *Criminal Justice (United Nations Convention against Torture) Act, 2000*”, and
- (ii) the insertion in subsection (3) after “genocide” (inserted by section 5 of the Act of 1973) of “an offence under the *Criminal Justice (United Nations Convention against Torture) Act, 2000*”.

Section 7 Amendment of Act of 1965

The Act of 1965 is hereby amended—

- (a) in section 3(1), by the insertion of the following definition:
“‘torture’ has the meaning assigned to it by the *Criminal Justice (United Nations Convention against Torture) Act, 2000*.”,
- (b) in section 11, by the insertion after subsection (2) of the following:
“(2A) The same rule shall apply if there are substantial grounds for believing that if the request for extradition is granted the person claimed may be subjected to torture.”,
- (c) in section 33(3), by the insertion after “or political opinion” of “or that he may be subjected to torture”,
- (d) in section 44(2), by the insertion in subparagraph (ii) (inserted by section 8 of the Act of 1987) after “these reasons” of “or that he may be subjected to torture”, and
- (e) in section 50(2), by the insertion in paragraph (bb) (inserted by section 9 of the Act of 1987) after “these reasons,” of “or that he may be subjected to torture.”.

Section 8 Amendment of Criminal Procedure Act, 1967

The Criminal Procedure Act, 1967, is hereby amended—

- (a) in section 13(1), by the insertion after “genocide” (inserted by section 6 of the Act of 1973) of “, an offence under the *Criminal Justice (United Nations Convention against Torture) Act, 2000*”, and (b) in section 29(1), by the insertion after paragraph (g) (inserted by section 7 of the Act of 1973) of the following: “(h) an offence under the *Criminal Justice (United Nations Convention against Torture) Act, 2000*”.

Section 9 Amendment of Extradition (Amendment) Act, 1994

The First Schedule to the Extradition (Amendment) Act, 1994, is hereby amended by the insertion after paragraph 6 of the following:

“6A. Any offence under the *Criminal Justice (United Nations Convention against Torture) Act, 2000*”.

Section 10 Amendment of Bail Act, 1997

The Schedule to the Bail Act, 1997 , is hereby amended by the insertion after paragraph 30 of the following paragraph:

“Torture 31. Any offence under the *Criminal Justice (United Nations Convention against Torture) Act, 2000.*”.

Section 11 Privileges and immunities

- (1) The Committee against Torture established under Article 17 of the Convention and a conciliation commission set up under Article 21(1)(e) of the Convention shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions by the members of that Committee and such conciliation commission in the same manner and to the same extent as are experts performing missions for the United Nations under Article VI, section 22 of the Third Schedule to the Diplomatic Relations and Immunities Act, 1967 .
- (2) This section shall come into operation on such day as the Minister may appoint by order.

Section 12 Expenses

The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Section 13 Short title

This Act may be cited as the Criminal Justice (United Nations Convention against Torture) Act, 2000.