



Submission in response to Ireland's Fourth Periodic Report (DRAFT) under the International Covenant on Civil and Political Rights

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Shannonwatch (www.shannonwatch.org) is a group of human rights and peace activists based in the mid-West of Ireland. It was formed in 2008 by activists who had previously campaigned with Amnesty International, the Peace and Neutrality Alliance and other NGOs. Its objectives are to bring an end to the support provided by Ireland, and in particular Shannon Airport, to state agents involved in human rights abuse; to obtain accountability from the relevant Irish authorities and political leaders for this support; and to end U.S. military use of Shannon Airport. It actively opposes the integration of Ireland into all non-UN military arrangements and alliances.

Shannonwatch collaborates with Amnesty International and other like-minded organisations in pursuit of its objectives.

This submission has been prepared by Shannonwatch using data gathered through extensive monitoring and research into foreign military activity at Shannon Airport. The data, which covers the years from 2003 to 2011 inclusive, includes logs of suspect rendition aircraft landing at Shannon Airport, documented reports of political and judicial decisions, and detailed records of foreign state and state contracted flights using Shannon Airport and the surrounding airspace.

Ireland's Obligations in Relation to Extraordinary Rendition

As a party to the International Covenant on Civil and Political Rights (ICCPR), Ireland has an obligation under Article 7 to ensure that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Furthermore, as a party to the UN Convention Against Torture (UNCAT) which it has ratified through the Criminal Justice (United Nations Convention against Torture) Act 2000, Ireland has an obligation to arrest and charge anyone reasonably suspected of having committed torture or cruel, inhuman or degrading treatment.

In the Concluding Observation of the Human Rights Committee on Ireland's Third Periodic Report under the ICCPR, they expressed their concern about allegations that Irish airports have been used as transit points for rendition flights that transported people to countries where they risked being subjected to torture or ill-treatment. The Committee also noted the State party's reliance on official assurances and said they should "exercise the utmost care" in relying on these. It was also recommended that a regime for the control of suspicious flights should be established, and that the State party should ensure that all allegations of renditions were publicly investigated.

The State Party's Actions and its Response to the Human Rights Committee

Ireland has failed to implement the recommendations of the Human Rights Committee by not investigating *all* allegations that aircraft linked to renditions have landed in Ireland or have crossed Irish airspace, and by failing to take measures to prevent such acts.

Evidence from Amnesty International indicates that six planes known to have been used for renditions by the U.S. authorities made approximately 800 flights in or out of European airspace up to 2005, including 50 landings at Shannon airport¹. Council of Europe and European Parliament inquiries have identified Shannon airport as a stopover point in the U.S. renditions programme. Ireland was one of the countries named in a 2006 report by Council of Europe Parliamentary Assembly rapporteur Dick Marty as having passively colluded in U.S. renditions by allowing Shannon Airport to be used by aircraft linked with renditions without restriction or oversight.²

Since 2006 Shannonwatch have documented ongoing use of Shannon Airport by aircraft suspected of involvement in renditions, including the presence of 5 suspected aircraft in 2009³.

The Irish Human Rights Commission has repeatedly advised the Irish Government that the only effective way of ensuring that it does not become complicit in dispatching people to be tortured or ill-treated is through establishing an effective regime of monitoring and inspection.

Currently the Irish authorities put the onus on NGOs, journalists and citizens to provide evidence relating to the presence of known and suspected rendition aircraft, but they fail to act on the basis of evidence provided. The Irish government should review legislation governing the search and inspection of suspected rendition flights to ensure that it's civil and police authorities have the necessary power in this regard. If it is found that they do not have adequate powers to search suspect aircraft the legislation should be strengthened to ensure they have the necessary powers.

The failure to do so to date should be noted in the State's Fourth Periodic Report under the ICCPR.

Complaints

The Draft response by Ireland (the State party) notes that 17 complaints were received by an Garda Siochana regarding alleged rendition flights to/from Shannon Airport. However only 7 investigations are listed. Shannonwatch calls on the Department of Justice to make the outcomes of the investigations of *all* the complaints known, or if no investigations took place to explain why.

The following are samples of complaints which were made but not listed as having been investigated:

- On 27 June 2009, a complaint was filed at Shannon Garda Station asking that a Hercules C-130 military aircraft at Shannon Airport be inspected to ascertain whether or not it was involved in the illegal transport of prisoners *or* of illegal munitions.
- On 18 June 2008, a number of Gardai were asked at Shannon Airport to search aircraft registration N54PA. On the same day a further request was made at Shannon Garda Station that the aircraft be searched.
- On 29 November 2007 a request was made to inspect aircraft with registration N478GS at Shannon Airport. This aircraft is listed in a European Parliament report⁴ as allegedly being involved in the CIA's extraordinary renditions programme. Instead of searching the aircraft, the Gardaí asked the complainants to leave the airport. When they persisted in attempting to identify and observe the aircraft, they were arrested under the Air Traffic and Navigation Act, section 33.1.
- On 30 Oct 2007 a request was made to inspect suspect CIA rendition aircraft registration N475LC at Shannon Airport. The Gardai refused to do so and when asked why, a member said that they had an instruction not to search such planes.

Identifying Suspect Rendition Aircraft

Amnesty International has recommended that Ireland's laws and procedures in granting overflight or landing clearances to foreign aircraft, both state (including military) and civilian, should be reviewed in order to identify how Ireland may have been facilitated, directly or indirectly, violations of international law by other states.

The use of civilian aircraft has been a key component of the US rendition programme since the mid-1990s, as they bypass overflight and landing restrictions placed on state aircraft. Aircraft registered to specific private companies linked to extraordinary rendition have been recorded at Shannon by Shannonwatch, and these have formed the basis for complaints/inspection requests made to Gardai.

The Irish government cannot proactively identify foreign aircraft engaged in illegal activities such as renditions, as the current systems for the collection of information from unscheduled civilian aircraft making technical and other stopovers are inadequate. As a result, aircraft inspections are now essential. However a robust and transparent system is also needed to help identify aircraft, operators and crews using Irish territory or airports to commit or assist abuses of human rights, including renditions. In particular, procedures should be put in place so that requests for landing authorisation or overflight by all foreign aircraft other than regularly scheduled commercial flights – including US military aircraft - require the provision of sufficient information to allow effective monitoring of all persons on board, the purpose of the flight, and its final destination.

Failure to do so to date should be noted in the State's Fourth Periodic Report under the ICCPR.

In addition to taking the necessary steps to ensure that Ireland is not knowingly or unknowingly facilitating aircraft, crews and operators committing human rights abuse, the Irish government should establish an independent and impartial inquiry into the use of Irish territory, and in particular Shannon airport, in renditions over the last decade. The outcome of this review should be made public.

Presentation of Evidence and Information to An Garda Siochana

On 18 March 2011 Shannonwatch presented the Gardai with evidence and information relating to known and suspected rendition aircraft that passed through Shannon. This included information on specific aircraft landings at Shannon Airport that indicate possible involvement in human rights abuse and war crimes. This information covered the years 2009 and 2010 and was a follow-up to the document *Irish Complicity in CIA Rendition: CIA Plane*

Movements Through Irish Airports (Version 1.3) published by Shannonwatch in February 2009¹ and supplied to the Gardai on 18 March 2011.

In July 2011 the Superintendent with responsibility for the investigation indicated that it would take a matter of weeks to complete the first stage of the investigation. To date there has been no indication that this has been done, despite repeated assurances that Garda resources had been allocated to the task.

Based on the sample complaints listed above, and on the failure to investigate the information and evidence presented to the Gardai by Shannonwatch in March 2011, it cannot be said that all allegations have been investigated by senior police officers in accordance with Irish law.

Official Assurances

The Irish government has relied on U.S. assurances as the sole basis for its claims that Ireland has not been used for rendition purposes. These claims fail to recognise that Ireland's cooperation with aircraft crews engaged in rendition activities means it has facilitated rendition. Even where rendition aircraft are not carrying detainees while in a state's territory, but are known to be en route to/from the transfer of a person to a location where they are at risk of torture or are known to be furthering an act of enforced disappearance, the state is violating its human rights obligations if it fails to take measures to prevent or investigate the circumstances. These human rights obligations include its responsibilities under the Convention Against Torture (UNCAT), which Ireland has ratified through the Criminal Justice (United Nations Convention against Torture) Act 2000.

The Irish government has relied on diplomatic assurances from the U.S. Administration that prisoners have not been and would not be transported illegally through Irish territory. It has been repeatedly reminded by (among others) the Irish Human Rights Commission^{5 6}, Amnesty International^{7 8} and the European Parliament⁹ that the reliance placed on these diplomatic assurances is not sufficient to comply with Ireland's international human rights obligations under the aforementioned conventions. Specifically such assurances are insufficient to prevent torture or ill-treatment taking place in Irish territory or airspace and to ensure that its territory is not being used in any way to facilitate extraordinary rendition to another State where a person may be tortured.

Government Inaction

Information released by Wikileaks shows that in 2004 the Irish Government's legal advisors believed that if planes used Shannon in an itinerary that also included transporting prisoners, Ireland would be complicit in torture¹⁰. There is ample evidence to indicate that Shannon was used by aircraft with such itineraries – see for example the Amnesty International *Breaking the Chains* report¹¹ that documents rendition circuits known to have involved Shannon airport. Nonetheless government Ministers have claimed that aircraft that used Ireland as a staging post during rendition operations were not engaging in illegal activity. A further Wikileaks cable from 2007 reveals that the former Minister for Foreign Affairs Dermot Ahern believed rendition flights had transited Shannon. He and the Irish government failed, therefore, to uphold the Convention Against Torture and Article 7 of the ICCPR.

The Irish government set up a Cabinet Committee on Aspects of International Human Rights in November 2008 in order to review and strengthen legislation governing the search and inspection of suspected rendition flights, and to ensure that civil and police authorities had the necessary powers in this regard. It should be noted in the State's Fourth Periodic Report under the ICCPR that this Committee only met three times and produced no report or recommendations.

¹ Available at available at http://www.shannonwatch.org/sites/shannonwatch.org/files/docs/CIA_Shannon_Report_9_2_09.pdf.

Conclusion

Shannonwatch refute the statement in the State's Draft Fourth Periodic Report under the ICCPR that there is no evidence that any Irish airport has ever been used for the purpose of extraordinary rendition. We ask that this be corrected in the final report, based on the information provided.

We also question how the Government can be satisfied that the State may rely on assurances it has received with respect to extraordinary rendition, given the concerns expressed by a government Minister, the government's legal advisors and a range of national and international bodies.

Finally we request that the Department of Justice provide comprehensive information in relation to the complaints received by An Garda Siochana regarding alleged rendition flights to/from Shannon Airport. Incomplete or selective reporting of investigations means that Ireland is not fully and properly reporting on progress made in the enjoyment of the rights recognised by the Covenant, in accordance with Article 40 thereof.

Further details of all complaints listed in this submission, as well as data relating to suspected rendition aircraft transiting through Shannon, are available from Shannonwatch on request.

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¹ Amnesty International USA, *800 Secret CIA Flights Into And Out Of Europe*, Press Release, 5 December 2005, available at: <http://www.amnesty.ie/our-work/usa-800-secret-cia-flights-and-out-europe>

² Committee on Legal Affairs and Human Rights, *Alleged Secret Detentions And Unlawful Inter-State Transfers Involving Council Of Europe Member States*, Draft Report Part II, Rapporteur: Mr Dick Marty, AS/Jur (2006) 16 Part II, 7 June 2006

³ Shannonwatch, *Shannon Airport may still be a Stop-off for Illegal Rendition Flights*. Press Release 21 December 2009. Available at: <http://www.shannonwatch.org/story/shannon-airport-may-still-be-stop-illegal-rendition-flights>

⁴ European Parliament Temporary Committee on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners (TDIP), *Report on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners*, A6-0020/2007 FINAL, Available at: http://www.europarl.europa.eu/comparl/tempcom/tdip/final_report_en.pdf.

⁵ Irish Human Rights Commission, *Resolution In Relation To Claims Of US Aircraft Carrying Detainees*, available at: http://www.ihrac.ie/download/doc/resolution_rendition_200512.doc

⁶ Irish Human Rights Commission, *Submission to the European Parliament's Temporary Committee on Rendition*, 28 November 2006, available at: <http://www.ihrac.ie/download/doc/submission-to-european-temporary-committee-on-rendition-of-the-european-parliament.doc>

⁷ Amnesty International, *European Governments Putting People At Risk Of Torture*, Press Release, 12 April 2010, available at <http://www.amnesty.ie/news/european-governments-putting-people-risk-torture>

⁸ Amnesty International, *Irish Government Misleads UN On Secret Detentions*, Press Release, 27 January 2009, available at <http://www.amnesty.ie/news/amnesty-irish-government-misleads-un-secret-detentions>

⁹ European Parliament, *Report on The Alleged Use Of European Countries By The CIA For The Transportation And Illegal Detention Of Prisoners* (2006/2200(INI)), Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners, A6-9999/2007, 26 January 2007.

¹⁰ See <http://www.shannonwatch.org/blog/wikileaks-irish-government-knew-they-were-violation-torture-conventions>.

¹¹ Amnesty International, *Breaking the Chain: Ending Ireland's role in renditions*. Available from: <http://www.amnesty.ie/reports/breaking-chain-ending-ireland%E2%80%99s-role-renditions>.