



## IPRT Briefing on Spent Convictions

### Irish Penal Reform Trust

The Irish Penal Reform Trust (IPRT) is Ireland's leading non-governmental organisation campaigning for the rights of everyone in the penal system, with prison as a last resort.

IPRT is committed to reducing imprisonment and the progressive reform of the penal system based on evidence-led policies. IPRT works to achieve its goals through research, raising awareness, building alliances and growing our organisation.

### The current situation

IPRT welcomed the introduction of the Spent Convictions Bill 2007 as representing a step in the right direction in supporting ex-offenders in their reintegration into society. Ireland is the only remaining jurisdiction in the EU which does not have such a statute on the books and therefore does not allow for the expungement of criminal convictions, no matter what the offence.<sup>1</sup>

This situation has far-reaching consequences for those who are sentenced for criminal offences. Individuals with even minor criminal convictions face ongoing restrictions and barriers in employment, training, education, travel, in taking out insurance (therefore experiencing barriers to buying their own home), and in many other areas of life.

Considering that the largest proportion of those who are sentenced by Irish courts receive short-term prison sentences, fines or community-based sanctions for non-violent offences, the lack of possibility to have a criminal conviction expunged after a period of time is a consequence that is disproportionate, and it can be argued that it constitutes additional punishment that lasts a lifetime.

### Experiences

*"Our system, by not having spent sentences does not recognise change and so is not really rehabilitative in the way it claims to be."* (Anon, who received a €20 fine in 2004)

*"I feel as though I have given a lot back to society, now live a respectable crime free life and also wish to gain employment but I am unable to do so. This is partly due to current economic crisis but largely due to the fact that my conviction will be with me for life. The stigma of the conviction will hang over me for the rest of my life and no amount of voluntary work or academic success will ever change that fact."* (Anon, who received a 4-year custodial sentence, released in 2006)

*"Only this week we received our annual [home insurance] renewal quote, which again was higher due to the fact that I am seen as a higher risk because of my conviction. I rang around several of the insurance companies and was met with the same excuse that "at this time we are unable to offer you a quotation". I really welcome the forthcoming legislation regarding spent convictions as it means my partner will no longer be penalised because of my past mistake."* (Mark, who received a fine in the form of compensation, 9 years ago)

<sup>1</sup> This applies to adult offenders only. A separate regime of expungement of criminal convictions operates in relation to offences committed by children (anyone sentenced when under 18 years of age) under the Children Act 2001. The introduction of the legislation will mean that a person will not have to declare a spent criminal conviction save in limited circumstances as envisaged by the law.

*“What is the point in telling young people who may also have a criminal record ‘to change their lives, that there is a better life for them’ when this is not actually the case: because of the laws and legislation currently in this country, they will also be discriminated against even if they do.” (Claire, who received 1 year’s probation, 9 years ago)*

## What should change?

IPRT considers that the introduction of spent convictions legislation in Ireland is vital if Irish society is to support people with criminal convictions in their return to their families, communities, and social life. Such legislation is a necessary element in ensuring that the commission of a criminal offence does not lead to permanent barriers to reintegration into society.

While a welcome development, the Spent Convictions Bill 2007 had serious shortcomings, particularly in relation to the periods of rehabilitation required before the convictions could be expunged and the length of sentences which would be subject to the legislation (no more than 6 months imprisonment). IPRT welcomes the commitment by the new Government to publish a Spent Convictions Bill by July 2011, and we are now campaigning for optimum levels of legal protection in the Bill, and broadening the agenda for reform.

**We now have an opportunity to get it right, and a number of amendments should be introduced to address such shortcomings. These should be based on the following principles:**

1. The length of the required period of rehabilitation necessary to determine that an offender is resolved to desist from criminal behaviour **must be proportionate to the seriousness of the offence committed;**
2. A presumption should apply that all convicted persons should be able to avail of the spent convictions scheme, save for the most serious offences. In the UK, a review of the Rehabilitation of Offenders Act (1974) has judged the limit of 30 month sentences to be too restrictive - IPRT calls for the new Bill to extend at least this far;
3. Categories of employment and training where candidates would be required to disclose spent and unspent convictions should be drawn narrowly and apply where a direct link can be shown between the offence committed and category of employment or training sought (relevance of criminal conviction), or where there is a need to protect children or vulnerable adults; and
4. Spent convictions legislation should introduce the prohibition of discrimination in employment, education and in access to goods and services on the basis of criminal convictions.

## What do we call for?

Considering the critical importance of spent convictions legislation to the successful reintegration of former offenders, and thereby reducing the likelihood of reoffending, **IPRT calls on the Government and members of the Oireachtas to take the opportunity presented by the proposed Spent Convictions Bill to ensure that an effective legal framework is put in place, and to ensure that the Bill progresses through the necessary stages of the legislative process during 2011.**

## Further information

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