



# IPRT Briefing on Criminal Justice (Community Service) (Amendment) (No. 2) Bill 2011

## 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 to the progressive reform of the penal system based on evidence-led policies. IPRT works to achieve its goals through research, raising awareness, and building alliances.

## Introduction

IPRT strongly welcomes the introduction of the *Criminal Justice (Community Service) (Amendment) (No.2) Bill 2011*. We believe that the proposed Bill can make a real difference to a number of problems within the Irish justice system, which sees too many people sent to prison for minor offences. If, and when, implemented, the proposed legislation should help reduce the chronic overcrowding that exists in Irish prisons and also result in savings for the taxpayer. IPRT urges the Oireachtas to complete the legislative process as a matter of priority to enable the government and the Courts to make wider use of Community Service Orders (CSOs) as early as possible.

## Figures

- There were 4,541 people in custody in Irish prisons on 25th January 2011<sup>1</sup>; the Irish prison population has doubled since 1997.
- Sentenced committals rose by 35% in 2009 (10, 865 compared to 8,043 in 2008).<sup>2</sup>
- 70% of sentenced committals in 2009 were for 6 months or less.
- On an average day 15% of the prison population is under sentence of 12 months or less.
- There were 5,750 sentenced committals for 3 months or less in 2009, an increase of 63% on 2008.
- There were 3,601 sentenced committals for road traffic offences in 2009, representing 33.1% of the total; this is an increase of 59% on 2008.

## Value for Money

Community sanctions are much cheaper than imprisonment and, with certain categories of offenders, are demonstrably more effective, with lower levels of re-offending. The *Value for Money* analysis of the CSO scheme, carried out by the Department of Justice and Law Reform (as was) in 2009, disclosed that there was significant additional capacity for that system, and that the use of community service in lieu of prison would produce significant savings.<sup>3</sup> The cost per community service order is estimated at approx. €4,295 per offender; the alternative costs of imprisonment are estimated to amount to approx. €27,478 per offender.<sup>4</sup>

1. See Inspector of Prisons, *Standards for the Inspection of Prisons in Ireland - Women Prisoners' Supplement*, p. 4

2. All figures relating to sentenced committals are sourced from the Irish Prison Service, *Annual Report 2009*.

3. The Probation Service, *Value for Money and Policy Review of the Community Service Scheme* (2009), available at [http://www.probation.ie/pws/websitepublishing.nsf/AttachmentsByTitle/Value+for+Money+and+Policy+Review+of+the+Community+Service+Scheme%2C+October+2009/\\$FILE/Value+for+Money+and+Policy+Review+of+the+Community+Service+Scheme.PDF](http://www.probation.ie/pws/websitepublishing.nsf/AttachmentsByTitle/Value+for+Money+and+Policy+Review+of+the+Community+Service+Scheme%2C+October+2009/$FILE/Value+for+Money+and+Policy+Review+of+the+Community+Service+Scheme.PDF) (last accessed 21/03/11). In 2006, there were 1,158 individuals who had made a CSO. In 2010 this rose to 1,949 individuals (p. 21).

4. Ibid, p. 9. "Thus, community service costs approximately 15.6% of the alternative cost of imprisonment on a full cost basis."

**While welcoming the Bill, IPRT believes that a number of key points should be considered by the Oireachtas with a view to strengthening the proposed legislation:**

## Key Elements of the Bill

### 1. Community Service as an Alternative to Prison

The Bill retains the principle that a Community Service Order (CSO) should only be used where a judge would otherwise have imposed a sentence of imprisonment.<sup>5</sup> This principle is centrally important to guard against “net-widening”, ie. the danger that sanctions such as community service would be applied to new categories of less serious offenders, while the use of imprisonment remains constant.

### 2. Requirement on Judges to consider Community Service Order as an Alternative

The main purpose of the Bill is to “introduce a requirement” on a sentencing court to consider imposing a CSO, in lieu of a sentence of up to 12 months imprisonment. IPRT strongly supports the new section 3(1)(a) in which the qualifying sentence is raised from 6 months, as in the earlier version of the Bill, to 12 months.

## Recommendation for Amendment

### 3. Written Reason for Sentence

IPRT recommends that the presumption against imprisonment in section 3(1)(a) should be strengthened by requiring the sentencing judge not only to *consider* imposing a CSO in lieu of imprisonment for a qualifying sentence but *by obliging him or her to give written reasons*<sup>6</sup> behind a decision to imprison the convicted person.

## Issues for Further Consideration

### 4. Resources and Monitoring of Effectiveness

The Explanatory Memorandum to the Bill states that there will be no additional costs in implementing the Bill and that the existing resources of the Probation Service will meet the expected increase in CSOs. The Probation Service must continue to be adequately resourced into the future so that this increased volume of CSOs can be effectively administered.

### 5. Review of Power of District Court to Impose Sentence of Imprisonment

Although outside the remit of the proposed Bill, IPRT believes that any consideration of the use of prison with regard to less serious crime must also examine the power of sentencing to prison from District Court. The Prison Governors Association in the UK has recommended that sentences of less than one year be abolished because they do not work<sup>7</sup> and the Howard League of Penal Reform has called for Magistrates (the UK equivalent of District Court judges) to be stripped of their power to hand down prison sentences.<sup>8</sup> IPRT submits that the removal or restriction of District Court judges’ ability to impose custodial sentences would be an effective means of reducing the number of counter-productive and costly short-term prison sentences imposed at that level.

## Further information

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5. See Section 2 of the Criminal Justice (Community Service) Act, 1983

6. Section 17(3)(b) of the Criminal Justice and Licensing (Scotland) Act 2010 provides that where a judge imposes a sentence of 3 months or less he or she must give their reasons for the opinion that no other method of dealing with the offender is appropriate, and those reasons must be entered in the record of proceedings. See also Labour Party, *A Fair and Effective Penal System - Penal and Criminal Justice Policy Document*, p. 6

7. See Julie Trebilcock, *The reality of short term prison sentences - Early findings from research with the Prison Governors’ Association* (Imperial College London, October 2010)

8. See Howard League for Penal Reform, *Response to Breaking the Cycle - Effective punishment, rehabilitation and sentencing of offenders*, March 2011 at 4.6 (p. 22)