



SEANAD ÉIREANN

**AN BILLE UM AN gCÚIRT CHOIRIÚIL IDIRNÁISIÚNTA
2003**

INTERNATIONAL CRIMINAL COURT BILL 2003

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

AN BILLE UM AN gCÚIRT CHOIRIÚIL IDIRNÁISIÚNTA 2003 —AN COISTE

INTERNATIONAL CRIMINAL COURT BILL 2003 —COMMITTEE

Leasuithe Amendments

**Government amendments are indicated by an asterisk*

SECTION 2

1. In page 8, line 30, to delete “choses” and substitute “any chose”.
—*Senator Maurice Cummins.*
2. In page 8, line 32, before “proceeds” to insert “any”.
—*Senator Maurice Cummins.*

SECTION 7

3. In page 12, subsection (1), line 4, to delete “who” and substitute the following:

“, whatever his or her nationality, who, whether in or outside the State,”.
—*Senator Maurice Cummins.*

4. In page 12, subsection (3), line 11, to delete “is set out in the Schedule to the 1973 Act” and substitute the following:

“in the English language is set out for convenience of reference in *Schedule 2#*”.
—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell,
Michael McCarthy.*

#[This is the appropriate reference if amendment No. 21 is accepted.]

- *5. In page 12, subsection (3), line 11, to delete “the Schedule to the 1973 Act” and substitute “*Schedule 4#*”.

#[This is the appropriate reference if amendment No. 22 is accepted.]

SECTION 8

6. In page 12, subsection (1), line 15, to delete “who” and substitute the following:

“, whatever his or her nationality, who, whether in or outside the State,”.
—*Senator Maurice Cummins.*

SECTION 12

Section opposed.

—*Senator Maurice Cummins.*

[SECTION 17]

SECTION 17

- *7. In page 16, subsection (5), line 17, to delete “commencement” and substitute “passing”.

SECTION 19

8. In page 18, subsection (4), line 7, to delete “with” and substitute the following:

“and the court shall, unless it sees sufficient reason to the contrary, give”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell,
Michael McCarthy.*

- *9. In page 18, subsection (7), lines 16 and 17, to delete “Act of 2003” and substitute “European Arrest Warrant Act 2003”.

SECTION 20

10. In page 18, subsection (1), line 24, after “shall” to insert the following:

“, on being satisfied as to the authenticity and sufficiency of the documents submitted to it,”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell,
Michael McCarthy.*

SECTION 25

11. In page 21, subsection (2)(a)(ii), line 2, to delete “*ne bis in idem*,” and substitute the following:

“*ne bis in idem*¹”.

¹autrefois acquit, autrefois convict or double jeopardy.

—*Senator Maurice Cummins.*

SECTION 31

12. In page 24, subsection (1), to delete lines 1 and 2 and substitute the following:

“31.—(1) The Minister shall postpone the making of an order under *section 30* where the period referred to in *section 27* has not expired, and may, on or following the conclusion of that period, postpone the making of such an order—”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell,
Michael McCarthy.*

SECTION 35

13. In page 25, subsection (3), between lines 31 and 32, to insert the following:

“(a) with the consent of the person and of the state of enforcement, that any sentence or balance of a sentence which the person is liable to serve in the State shall be served in the state of enforcement,”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell,
Michael McCarthy.*

[SECTION 38]

SECTION 38

14. In page 28, between lines 10 and 11, to insert the following subsection:

“(5) Where a freezing order is made, and proceedings are pending in the High Court or another court, in which relief referred to in the definition of “realisable property” in *section 41* is claimed, the High Court shall, on the making of a freezing order under this section, order the discharge of those proceedings and any interim or interlocutory order in the nature of a freezing order made in those proceedings.”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell, Michael McCarthy.*

SECTION 40

15. In page 31, subsection (9), line 38, after “order” to insert the following:

“which appeared to the High Court to be a sum which might be realised by the person to whom the order is directed”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell, Michael McCarthy.*

SECTION 50

***16.** In page 37, subsection (1), to delete line 6 and substitute the following:

“(b) the whole or part of a nail or of any material found under it;”.

17. In page 37, subsection (1), line 6, after “nail” where it firstly occurs to insert “clipping”.

—*Senator Mary Henry.*

18. In page 37, subsection (1), line 24, after “print” to insert “, iris identification”.

—*Senator Mary Henry.*

SECTION 51

19. In page 42, subsection (13), line 9, after “it” to insert the following:

“, provided that where such material is to be transmitted out of the State, arrangements shall be made for the return of such material following the conclusion of proceedings before the International Criminal Court, and, where human remains are transmitted out of the State under this subsection, subject to arrangements for the reburial of such remains in the State or in such other place as is directed by the next of kin following the conclusion of such proceedings”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell, Michael McCarthy.*

SECTION 52

20. In page 43, subsection (3)(a)(ii), line 11, after “intimidation” to insert the following:

“or to the prohibition of publication of information tending to identify any person the court considers ought not to be identified”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell, Michael McCarthy.*

[*SCHEDULE 2*]

SCHEDULE 2

21. In page 130, before Schedule 2, to insert the following new Schedule:

“SCHEDULE 2

CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF
GENOCIDE. ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED
NATIONS ON 9 DECEMBER 1948

THE CONTRACTING PARTIES,

HAVING CONSIDERED the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilised world;

RECOGNIZING that at all periods of history genocide has inflicted great losses on humanity; and

BEING CONVINCED that, in order to liberate mankind from such an odious scourge, international co-operation is required,

HEREBY AGREE AS HEREINAFTER PROVIDED:

Article I

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Article II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Article III

The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;

[*SCHEDULE 2*]

(e) Complicity in genocide.

Article IV

Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

Article V

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III.

Article VI

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Article VII

Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

Article VIII

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

Article IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Article X

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

Article XI

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

[*SCHEDULE 2*]

After 1 January 1950 the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article XII

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

Article XIII

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a *procès-verbal* and transmit a copy thereof to each Member of the United Nations and to each of the non-member States contemplated in article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

Article XIV

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

Article XV

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

Article XVI

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

Article XVII

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in article XI of the following:

- (a) Signatures, ratifications and accessions received in accordance with article XI;

[*SCHEDULE 2*]

- (b) Notifications received in accordance with article XII;
- (c) The date upon which the present Convention comes into force in accordance with article XIII;
- (d) Denunciations received in accordance with article XIV;
- (e) The abrogation of the Convention in accordance with article XV;
- (f) Notifications received in accordance with article XVI.

Article XVIII

The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to each Member of the United Nations and to each of the non-member States contemplated in article XI.

Article XIX

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell, Michael McCarthy.*

SCHEDULE 4

***22.** In page 151, after line 17, to insert the following new Schedule:

“*Section 7(3).*

SCHEDULE 4

CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF
GENOCIDE. ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED
NATIONS ON 9 DECEMBER 1948

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RECOGNIZING that at all periods of history genocide has inflicted great losses on humanity; and

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