



**An Bille um an Dlí Coiriúil (Dlínse Sheach-Chríochach),
2018**
Criminal Law (Extraterritorial Jurisdiction) Bill 2018

Meabhrán Mínitheach agus Airgeadais
Explanatory and Financial Memorandum



**AN BILLE UM AN DLÍ COIRIÚIL (DLÍNSE SHEACH-
CHRÍOCHACH), 2018**
CRIMINAL LAW (EXTRATERRITORIAL JURISDICTION) BILL
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EXPLANATORY AND FINANCIAL MEMORANDUM

BACKGROUND

The primary purpose of the Bill is to create extraterritorial jurisdiction over certain offences contained in the Non-Fatal Offences against the Person Act 1997 and the Criminal Law (Rape) (Amendment) Act 1990, as well as extending extraterritorial jurisdiction to murder and manslaughter committed abroad by Irish residents. The Bill is to give further effect to the Council of Europe Convention on preventing and combating violence against women and domestic violence done at Istanbul on 11 May 2011.

PROVISIONS OF THE BILL

Section 1 - Definitions

Section 1 defines key terms in the Bill. It provides that any reference to a “Convention State” means a state, other than the State, that is a party to the Istanbul Convention on preventing and combatting violence against women and domestic violence. Of particular note is the definition of “relevant offence” which means:

- (a) an offence under section 3, 4, 5, 9 or 10 of the Non-Fatal Offences Against the Person Act 1997,
- (b) sexual assault within the meaning of section 2 of the Act of 1990,
- (c) aggravated sexual assault within the meaning of section 3 of the Act of 1990,
- (d) rape, or
- (e) rape under section 4 of the Act of 1990.

These offences are “relevant” offences in the Bill as they correspond to the offences that states are required to provide for under Articles 34, 35, 36 and 40 of the Istanbul Convention. The requirement to provide for extraterritorial jurisdiction over such offences committed by Irish citizens or residents abroad is contained in Article 44 of the Convention.

Section 2 – Application of Act

Section 2 clarifies that the provisions of the Bill will not apply where jurisdiction is already provided for under the Criminal Law (Jurisdiction) Act 1976 which deals with jurisdiction in relation to offences committed in Northern Ireland. This provision was necessary to avoid overlap between the provisions of this Bill and the provisions already in place for offences committed in Northern Ireland.

Section 3 – Conduct engaged in outside State

Section 3 provides for extraterritorial jurisdiction over relevant offences as defined in section 1. It also provides for extraterritorial jurisdiction over murder and manslaughter in certain circumstances.

Section 3(1) provides that it is an offence for any person to commit a relevant offence on board an Irish ship or on an aircraft registered in the State.

Section 3(2) provides that it is an offence for any person to aid, abet, counsel or procure in the State, on board an Irish ship or on an aircraft registered in the State another person to commit a relevant offence. The conduct that would constitute the relevant offence must occur in a Convention State, on board an Irish ship or an aircraft registered in the State.

Section 3(3) provides that it is an offence for an Irish citizen or resident to commit a relevant offence in a Convention State. The offence must also be an offence in the Convention State in which it took place.

Section 3(4) provides that it is an offence for an Irish citizen or resident to aid, abet, counsel or procure in a Convention State another person to commit a relevant offence. The conduct that would constitute the relevant offence must also occur in a Convention State.

Section 3(5) provides that it is an offence for an Irish resident, who is not a citizen, to commit murder or manslaughter in any place outside the State. Section 9 of the Offences Against the Person Act 1861 already provides that it is an offence for an Irish citizen to commit murder or manslaughter in any place outside the State.

Section 3(6)(a) – (c) provides that it is an offence for any person to aid, abet, counsel or procure another person to commit murder or manslaughter. The aiding, abetting, counselling or procuring must occur in the State, on board an Irish ship or on an aircraft registered in the State. The conduct that would constitute murder or manslaughter must occur outside the State.

Section 3(6)(d) provides that it is an offence for an Irish citizen or resident to aid, abet, counsel or procure another person to commit murder or manslaughter. The aiding, abetting, counselling or procuring must occur outside the State and again, the conduct that would constitute murder or manslaughter must occur outside the State.

Section 3(7) is a standard provision which provides that proceedings for an offence under section 3 may be taken in any place in the State.

Sections 3(8) and 3(9) are standard provisions relating to proof of citizenship of an individual.

Section 3(10) is a standard provision that relates to residency requirements for the purpose of the Bill.

Section 3(11) and 3(12) provide that where a person has been either acquitted or convicted of an offence under this section in another State, they will not be proceeded against in the State for the same offence.

Section 4 – Amendment of Criminal Justice (Mutual Assistance) Act 2008

Section 4 amends the Criminal Justice (Mutual Assistance) Act 2008 to provide for the application of the provisions of that Act to the Istanbul Convention.

Section 5 – Short Title and Commencement

Section 5 provides for the short title of the Bill and for its commencement by an order or orders to be made by the Minister for Justice and Equality.

Schedule

The Schedule to the Bill contains the official text of the Istanbul Convention.

Financial Implications

There are no discernible financial implications for the Exchequer.

*An Roinn Dlí agus Cirt agus Comhionannais,
Samhain, 2018.*