IN THE UNITED NATIONS COMMITTEE AGAINST TORTURE
IN THE MATTER OF A COMPLAINT PURSUANT TO ARTICLE 22 OF THE UNITED NATIONS CONVENTION AGAINST TORTURE

BETWEEN:

ELIZABETH COPPIN

Complainant

- and -

IRELAND

Respondent State Party

REPLY OF THE COMPLAINANT TO IRELAND'S SUBMISSION ON THE MERITS OF HER COMMUNICATION

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1. INTRODUCTION

1.1 From the age of 14, as a child in State care, Elizabeth Coppin was tortured and ill-treated, by way of arbitrary detention, servitude and forced labour, institutionalisation, denial of identity, and constant denigration and humiliation, in three Magdalene Laundries between 1964 and 1968. Despite the injuries she suffered, and the added harm caused to her by prolonged impunity, Mrs Coppin has campaigned tirelessly for truth, justice and guarantees that similar abuse will never be allowed to happen again.

1.2 Mrs Coppin is now 71 years of age and in deteriorating health. She thanks the Committee for the opportunity to respond to Ireland's Submission on the Merits ("Ireland's Submission") and respectfully requests that the Committee expedites its consideration of her Communication to the extent possible now that all arguments have been made. This Reply contains no information that is not already published or otherwise already known to the State Party.

1.3 Mrs Coppin contends that Ireland's Submission only adds weight to her complaints. The State Party provides yet more evidence of its failures. Only now, annexed to Ireland's Submission, has the State Party for the first time disclosed to Mrs Coppin a Garda (police) file relating to her criminal complaints in 1997 and 1998. The Director of Public Prosecutions' ("DPP") records to which the Garda file and Ireland's Submission refer remain undisclosed. The Garda file shows that entirely insufficient investigative efforts were made between 1998 and 2000 in response to Mrs Coppin's complaints of 1997 and 1998. As explained below, the Gardaí failed to investigate or

consider (i) all relevant perpetrators, including individuals whom Mrs Coppin specifically named in her statement to Gardaí; (ii) all relevant sources of evidence; (iii) the actual content of the legislative framework regulating the detention of young persons in Church-run institutions; or (iv) the nature and severity of each individual complaint by Mrs Coppin of abuse. The Garda file discloses that Mrs Coppin was informed perfunctorily by way of a telephone call that her case did not warrant prosecution. Mrs Coppin was not invited to suggest further lines of inquiry.

1.4 Ireland claims that Mrs Coppin's so-called 'delay' in complaining to the Gardaí and in instituting proceedings in the civil courts is the reason that these mechanisms did not operate to provide Mrs Coppin with accountability.[1] Ireland accepts no responsibility for failing to investigate abuse in Magdalene Laundries in the decades prior to Mrs Coppin's complaints, despite knowing about and participating directly in the regime of arbitrary detention and servitude in Magdalene Laundries. Ireland has not acknowledged the impact of either its failure to take proactive investigative steps, or the continuing inaccessibility of administrative archives concerning the Magdalene Laundries, on Mrs Coppin's ability to seek justice from the time of her abuse to the present day. The State Party has directly attempted to thwart Mrs Coppin's quest for accountability by attaching conditions to her receipt of an *ex gratia* payment; for example, she has been forced to waive her right of access to the civil courts.[2]

1.5 At the same time that it withholds access to the archive of the Inter-departmental Committee ("IDC") and to the nuns' administrative records, Ireland persists in claiming that the IDC inquiry between 2011 and 2013 into State involvement with the Magdalene Laundries established the 'objective' truth of girls' and women's experiences in these institutions.[3] Ireland's Submission rejects the Committee's Concluding Observations in 2017 which found that "*the State party has not undertaken an independent, thorough and effective investigation into allegations of ill-treatment of women and children in the Magdalen laundries*".[4] Ireland's Submission mischaracterises the Magdalene Laundries as wholly private and benign "*refuges*" where women were voluntarily "*resident*".[5] Ireland continues to ignore the overwhelming evidence to the contrary that exists both in the IDC Report and elsewhere.

1.6 Notwithstanding the IDC's failure to investigate effectively or make findings or recommendations regarding human rights violations in Magdalene Laundries, the contents of the IDC Report were sufficient for the Irish Human Rights Commission ("IHRC") to state in June 2013 that, "*Magdalen Laundries clearly operated as a discriminatory regime in respect of girls and women in the state*", that "*women were deprived of their liberty while in the Laundries [and the] lawfulness of such detention is questionable in a number of respects*", that "*[t]he State's culpability in regard to forced or compulsory labour and/or servitude appears to be threefold*" and that "*from*

[1] Ireland's Submission, paras 11 and 62.
[2] See Complaint, paras 4.8-4.10, 5.1.3-5.1.5, 5.4.1, 6.7.5-6.7.11, 8.1.7, 8.1.24, 8.2.8.
[3] Ireland's Submission, para 107.
[4] Ireland's Submission, paras 133-140.
[5] See: Ireland's Submission, paras 14 and 16.

the testimonies of survivors it appears that a certain level of ill-treatment occurred".[6] The IHRC has repeatedly concurred with the Committee that the State Party has not investigated the Magdalene Laundries sufficiently to comply with its obligations under international human rights law.[7] In its most recent Submission to the Committee, the IHRC (now Irish Human Rights and Equality Commission "IHREC") recommended "*that the State fully investigate the treatment of women in the Magdalene laundries*".[8]

1.7 Mr Justice John Quirke, then-President of the Irish Law Reform Commission, published a similar evaluation of the "*entirely credible*"[9] recollections of hundreds of Magdalene survivors who spoke to him in 2013 for the purposes of his recommendations on *ex gratia* redress. The Report of the Magdalen Commission ("Magdalen Commission Report") notes that "*All of the women who worked within the designated laundries worked without pay, some for very long periods of time*";[10] that "*A very large number of the women described the traumatic, ongoing effects which incarceration within the laundries has had upon their security, their confidence and their self-esteem. Many described the lasting effects of traumatic incidents such as escape from the laundries and subsequent recapture and return*";[11] and that "*The consultation process conducted by the Commission suggested that a large number of young girls and women who were admitted to the Magdalen laundries were degraded, humiliated, stigmatised and exploited (sometimes in a calculated manner)*".[12] In June 2018, the President of Ireland, Michael D Higgins, similarly acknowledged these forms of human rights abuse.[13] President Higgins stated:

> *"…A combination of stigma, shame and unreceptive society condemned so many women to concealing their experiences, their trauma, their hurt. In recent years the silence has been broken and you all have helped to let the light into some very dark corners of our shared past. You have presented us with what makes very harrowing and deeply uncomfortable reflection <u>of an Ireland some</u>*

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[6] See Complaint, para 8.1.23; [**VOL D / TAB 99 / PAGES 2623-2758]:** Irish Human Rights Commission, *IHRC Follow-Up Report on State Involvement with Magdalen Laundries*, June 2013.

[7] See also **[VOL F / TAB 133 / PAGES 3525-3537]:** IHREC, *Submission to UN Human Rights Committee on Ireland's One-Year Follow-up Report to its Fourth Periodic Review under ICCPR,* September 2015; **[VOL G / TAB 154 / PAGES 4246-4335]**: IHRC, *Submission to the UN Human Rights Committee on the Examination of Ireland's Fourth Periodic Report under the International Covenant on Civil and Political Rights,* June 2014; **[VOL G / TAB 155 / PAGES 4336-4371]:** IHREC, *Submission to UN Committee on the Elimination of all forms of Discrimination against Women List of Issues Prior to Reporting on Ireland's Combined 6th and 7th Report under CEDAW,* October 2015; **[VOL G / TAB 156 / PAGES 4372-4502]:** IHREC, *Submission to the United Nations Committee on the Elimination of Discrimination Against Women on Ireland's combined sixth and seventh periodic reports,* January 2017.

[8] **[VOL G / TAB 157 / PAGES 4503-4570]:** IHREC, *Submission to the United Nations Committee against Torture on Ireland's second periodic report,* July 2017, p 54.

[9] **[VOL D / TAB 80 / PAGE 2066-2195]:** Mr Justice John Quirke, *The Magdalen Commission Report,* May 2013, para 4.09; see: Complaint, paras 6.7.10, 8.3.

[10] [**VOL D / TAB 80 / PAGE 2066-2155]:** Mr Justice John Quirke, *The Magdalen Commission Report,* May 2013, para 2.11.

[11] **[VOL D / TAB 80 / PAGE 2066-2155]:** Mr Justice John Quirke, *The Magdalen Commission Report,* May 2013, para 5.13.

[12] **[VOL D / TAB 80 / PAGE 2066-2155]:** Mr Justice John Quirke, *The Magdalen Commission Report,* May 2013, para 3.03.

[13] **[VOL G / TAB 158 / PAGES 4571-4575]:** President Michael D Higgins, *Speech to women who worked in the Magdalene Laundries,* 5 June 2018.

would prefer not to be able to recognise, but which has to be acknowledged, transacted and to which a response must be made.

All of you and all the other women who cannot be with us today were failed by these institutions, the experience of which you share, and the religious orders that ran them. You were profoundly failed by the State which, in its relationship to those institutions, should have had your welfare at its core. You were failed by Governments that knowingly relied on the existence and practices of these institutions rather than addressing your particular needs in other, more sympathetic ways, You were also failed by a society that actively colluded in your incarceration and treatment or chose to look the other way, averted their gaze, as vulnerable girls and women were subjected, in so many cases, to further abuse and degradation…

Ireland failed you. When you were vulnerable and in need of the support of Irish society and its institutions, its authorities did not cherish you, protect you, respect your dignity or meet your needs and so many in the wider society colluded with their silence."

1.8 Also in June 2018, then Minister for Justice, Charles Flanagan TD, acknowledged to hundreds of Magdalene Laundries survivors gathered in Dublin that "*This State allowed you to be incarcerated, and made to work in Magdalene Laundries. We had a duty of care, we had a job of inspection, and we failed*."[14]

1.9 The submission that Mrs Coppin's testimony is "*not supported by available objective evidence, and in particular the evidence given by women to the inter-departmental committee in relation to living and working conditions in Laundries*" is therefore a distortion of reality.[15] Furthermore, in support of its claim that Mrs Coppin suffered no ill-treatment, Ireland argues that Mrs Coppin has not sought reimbursement of healthcare expenses.[16] What Ireland does not disclose is that both Mrs Coppin and her General Practitioner have written to the State Party to request up-front payment of healthcare expenses; these requests have been rejected and ignored, respectively.[17]

1.10 In a further attempt to undermine Mrs Coppin's credibility, Ireland claims that Mrs Coppin has 'failed' to provide contemporaneous medical evidence from the time of her incarceration.[18] Mrs Coppin's Complaint demonstrated that she has been trying without success for over 15 years to obtain further documentation from the nuns concerning her

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[14] **[VOL G / TAB 159 / PAGES 4578-4673]:** Minister Charlie Flanagan TD, *Speech by Charlie Flanagan, T.D., Minister for Justice and Equality Gala Dinner 5 June, 2018 – Dublin Honours Magdalenes Event* in K O'Donnell and C McGettrick, *Dublin Honours Magdalenes Listening Exercise Vol 1: Report on Key Findings*, page 83.

[15] Ireland's Submission, para 104.

[16] Ireland's Submission, para 103.

[17] See **[VOL G / TAB 160 / PAGES 4674-4675]:** Email from the Department of Taoiseach to Elizabeth Coppin, 17 October 2018; **[VOL G / TAB 161 / PAGE 4676]:** Letter from Dr Peter Winfrey to Minister Charlie Flanagan TD, 11 January 2019; **[VOL G / TAB 162 / PAGES 4677-4678]:** Email from Conor Cleary to Elizabeth Coppin, 8 April 2019.

[18] Ireland's Submission, paras 103-104.

experiences.[19] Meanwhile, Ireland has consistently declined to require the nuns to transfer their archives to the State. For example, in a written answer to a parliamentary question, then Minister for Justice and Equality Alan Shatter TD stated:

> *"I have no control over records held by the religious congregations or other non-State bodies. However from my contact with the religious congregations I understand that they will facilitate individual's access to records with the necessary regard being given to their privacy and data protection. It is not within my power to establish a facility that would allow the women who were admitted to the Magdalen Laundries and their families access to all genealogical and other records necessary to locate their families and reconstruct their family identities."*[20]

1.11 Ireland's Submission even seeks to take advantage of Mrs Coppin's honest, voluntary disclosure that she replied in the negative when Senator Martin McAleese, Chair of the IDC, questioned whether she saw "*abuse*" in the Magdalene Laundries. Mrs Coppin has explained in her Witness Statement that Senator McAleese confused her with this question.[21] She had previously made detailed written submissions to the Senator[22] and therefore believed, in the absence of the Senator explaining what he meant by the term "*abuse*", that he was inquiring about practices other than those she had written to him about. Mrs Coppin's Witness Statement to the Committee clarifies:

> "*I think I have always associated the word 'abuse' with the physical beatings I grew up with on a daily basis in the Industrial School. I didn't believe the act of dragging me to the padded cell, or the detention and forced labour I experienced, would be classed as abuse.*"[23]

1.12 Ireland claims that its knowing failure to regulate the Magdalene Laundries as "*residential institutions*" or places of "*committal*" (rather than simply as factory premises) means that the State Party is <u>not</u> responsible for what happened in the Catholic Church-run institutions.[24] Ireland appears to have learned nothing about the meaning of torture or ill-treatment nor the State's responsibility to prevent and protect

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[19] Complaint, para 8.2.12; **[VOL A / TAB 2 / PAGES 1-19]:** Statement of Elizabeth Coppin, 12 July 2018, paras 103-104.
[20] **[VOL G / TAB 163 / PAGES 4680-4681]:** Minister Alan Shatter TD, Magdalen Laundries Dáil Éireann Debate, 6 March 2013.
[21] **[VOL A / TAB 2 / PAGES 1-19]:** Statement of Elizabeth Coppin, 12 July 2018, paras 62-63.
[22] **[VOL B / TAB 76 / PAGES 1395-1399]:** Elizabeth Coppin, Letter to Senator McAleese on State involvement in the Magdalene Laundries (attached to email to Loretta Barrett, Department of Justice), 13 May 2012.
[23] **[VOL A / TAB 2 / PAGES 1-19]:** Statement of Elizabeth Coppin, 12 July 2018, para 63; see also: **[VOL G / TAB 164 / PAGES 4682-4704]:** Fabian Salvioli, *The gender perspective in transitional justice processes* UN Doc A/75/174, 17 July 2020, para 21: *" In cases of women victims of human rights violations in general, and sexual violence in particular, the problem of their self-identification as victims arises. Many women do not perceive the crimes committed against them as violations of their human rights or they diminish them by prioritizing the telling of the experiences of others, which entails making their own suffering invisible (reference omitted). In particular, in the case of sexual violence, silence prevails, not only because of feelings of guilt, shame or fear of being stigmatized or ostracized by the community, but also because of the conviction that any complaint would be futile owing to the lack of institutional protection, which highlights the extent of sexist cultural patterns."*
[24] Ireland's Submission, paras 16-17.

from such abuse since Mrs Coppin was arbitrarily detained and egregiously exploited in three Magdalene Laundries. Mrs Coppin can have no confidence that the State Party will ensure national education regarding the Magdalene Laundries regime, or that similar abuses will not be permitted to happen again.

1.13 As a reminder to the Committee, Mrs Coppin's complaints are the following:

a. Mrs Coppin's treatment in the three Magdalene Laundries meets the definitions of torture and other forms of cruel, inhuman or degrading treatment or punishment, and Ireland has since 11 May 2002 had "*reasonable ground to believe*" that Mrs Coppin, specifically, and girls and women detained in Magdalene Laundries, generally, were subjected to torture and/or ill-treatment;

b. Ireland has at no point conducted a thorough, prompt and impartial investigation into Mrs Coppin's treatment in the Magdalene Laundries (her complaint under **Article 12**);

c. Ireland has vitiated Mrs Coppin's right to complain to, and have her case promptly and impartially examined by, its competent authorities (her complaint under **Article 13**);

d. Ireland has failed to provide her with comprehensive redress including the means for as full rehabilitation as possible, meeting the requirements of General Comment No 3 (her complaint under **Article 14**); and

e. Ireland has, by its continued denials that violations of human rights occurred in the Magdalene Laundries and its above-mentioned violations of Articles 12, 13 and 14, compounded Mrs Coppin's suffering, such that she is experiencing a continuing situation of dignity violation (her complaint under **Article 16**).

2. IRELAND'S PRELIMINARY OBJECTION

2.1 Before considering the question of the breaches of Articles 12, 13, 14 and 16, it is apparent that Ireland contends — as a preliminary issue — that the Convention is not engaged at all because the threshold that Mrs Coppin's treatment must have amounted to ill-treatment or torture has not been met. As explained in more detail below, that is fundamentally contradicted by Ireland's own investigations.

IDC Report

2.2 Ireland relies heavily on the submission (which is incorrect, as explained below) that the 2013 IDC Report discloses no evidence to suggest that torture or any other form of

ill-treatment generally occurred in Magdalene Laundries.[25] This echoes the State Party's periodic report to the Human Rights Committee in January 2020, which states:

> *"The [IDC] brought into the public arena a considerable amount of information not previously known about Magdalen Laundries and showed that many of the preconceptions about these institutions were not supported by the facts. The content of the report has been fully accepted by the Irish Government. The McAleese Committee had no remit to investigate or make determination about allegations of torture or any other criminal offence. However, it did take the opportunity to record evidence and testimony that might throw light on allegations of systematic abuse. No factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions was found*."[26]

2.3 It is therefore necessary to summarise some of the contents of the IDC Report before addressing the State Party's arguments about Mrs Coppin's personal experiences.

2.4 Notwithstanding the IDC's failure to investigate or issue findings or recommendations regarding the human rights law or other legal implications of the following facts, the IDC Report does reveal very significant evidence of abuse, cruelty, and violations of human dignity. In particular, Mrs Coppin invites the Committee to read Chapter 19 which outlines, in summary:

a. Girls and women were involuntarily detained and not free to leave. Chapter 19 states that "*a large number of the women spoke of a very real fear that they would remain in the Magdalen Laundry for the rest of their lives*" and quotes the evidence of women who believed that they would die in the Laundries.[27] It also contains evidence of women being "*reclaimed by members of their families*"[28] and making plans to try to escape the institutions.[29] It summarises evidence from several of the religious congregations explaining why they locked doors and gates of the Magdalene Laundries,[30] and cites the testimony of a former novice nun in a Magdalene Laundry that "*both the external and internal doors of the Laundry were locked*."[31]

b. Girls and women were given no information regarding the reason(s) for their detention or their expected release date. Chapter 19 states that a "*very common grievance …was that there was a complete lack of information about why they were there and when they would get out*".[32] Indeed, it notes that "*release was*

[25] Ireland's Submission, paras 104, 109, 110-112.
[26] **[VOL G / TAB 165 / PAGES 4705-4746]:** Human Rights Committee, *Fifth periodic report submitted by Ireland under article 40 of the Covenant, due in 2019*, 31 January 2020, para 66.
[27] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, paras 52, 130.
[28] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 57.
[29] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 58, 59.
[30] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, paras 69-71.
[31] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 112.
[32] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 51.

also a source of distress" for a number of women because it was sudden and unexpected.[33] It states that because of this lack of information, even having been released, "*many…were fearful that, for some unknown reason, they might be brought back there again. Some of the women told the Committee that they felt free of this fear only after they left Ireland to live abroad*."[34]

c. Girls and women were stripped of their identities. The IDC Report acknowledges *"the practice, in some Magdalen Laundries, of giving 'House' or 'Class' names to girls and women on entry in place of their given names",*[35] and acknowledges that "*[m]any of the women…found this practice deeply upsetting and at the time, felt as though their identity was being erased*".[36] It also reports the forced cutting of long hair, which many women found humiliating and degrading.[37] The IDC Report refers to the fact that women and girls were forced to wear uniforms for many decades.[38] Chapter 19 also contains several women's evidence of being forbidden to speak.[39]

d. Girls and women were forced to work constantly. The Report contains women's evidence of being forced constantly to carry out "*heavy and difficult*" work at commercial laundering, sewing and making handcrafts, including rosary beads and clothing.[40] It cites women's complaints of being tired, "*soaking wet*" and too small to operate laundry machinery safely, [41] and the religious congregations' evidence of the daily routine of work and prayer.[42]

e. Girls and women were not paid wages for the work they were forced to carry out. Chapter 20 states that "*[w]ages were not paid either to the girls or women who worked in the Laundries or to the members of the Religious Congregations who also worked there*."[43] It also notes that the Conditions of Employment Act, 1936, exempted the religious congregations from the legislative requirement to pay wages to the girls and women working and living in Magdalene Laundries.[44] Chapter 15 evidences, further, that social insurance contributions were not paid on behalf of girls and women working and living in Magdalene Laundries.[45]

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[33] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 55, 130.
[34] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 28.
[35] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 63.
[36] **[VOL C / TAB 77 / PAGES 1401-1406]:** IDC Report, Introduction, para. 15.
[37] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 42.
[38] **[VOL C / TAB 77]:** IDC Report, Chapter 3, para 9; Chapter 18, para 71; Chapter 19, paras 16, 48.
[39] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 39.
[40] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, paras 35, 39, 131.
[41] [**VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 39.
[42] [**VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, paras 64-68, 143; see also: *Magdalen Home Rules and Horarium,* cited at IDC Report, Chapter 19, paras 139-142.
[43] **[VOL C / TAB 77 / PAGES 1914-1925]:** IDC Report, Chapter 20, para 33.
[44] **[VOL C / TAB 77 / PAGES 1452-1484]:** IDC Report, Chapter 5, para 150.
[45] **[VOL C / TAB 77 / PAGES 1790-1806]:** IDC Report, Chapter 15, paras 90-107.

f. Girls and women were denied contact with the outside world and isolated from the rest of society. Not only were girls and women involuntarily detained but they were also forbidden from communicating with the outside world other than under strict surveillance.[46] Chapter 19 states that women "*told the Committee that all letters which they sent or received were read by the Sisters*" and that they could not complain about their treatment in their letters.[47] Chapter 19 also states that visits, if permitted, were generally supervised.[48]

g. Girls and women were subjected to degrading and humiliating punishments. Chapter 19 cites evidence of some women being shaken, poked or "*dug*" at with implements, rapped on the knuckles, slapped or punched,[49] forced to kneel for several hours, put in "*isolation*", confined in a padded cell or forced to lie and kiss the floor, having soiled bedsheets pinned to one's back,[50] or having one's haircut.[51] The Chapter also includes some of the religious congregations' evidence regarding punishments, including prolonged standing and kneeling, and transfer between institutions.[52]

h. Girls and women were subjected to routine verbal denigration and humiliation. Chapter 19 states that the "*overwhelming majority of the women who spoke to the Committee described verbal abuse and being the victim of unkind or hurtful taunting and belittling comments*".[53]

2.5 Ireland's Submission contends that "*[t]he evidence of the women to the [IDC] was to draw a distinction between what occurred in Magdalen Laundries and that which occurred in other institutions, such as Industrial Schools*".[54] Chapter 19 of the IDC Report reproduces extracts from a letter which the IDC received from two Directors of the Irish Women Survivors Support Network in London, who self-identify as survivors of residential schools. This letter acknowledges that girls and women in Magdalene Laundries were imprisoned behind iron bars without being told if or when their detention might end, and forced to work at heavy labour constantly with the use of solitary confinement as punishment. The letter also argues that, "*As both authors of this submission spent our childhoods and young adulthood in institutions, we are both fully aware from personal experience and observations that violence of all kinds was common place in children's institutions. However, we do not believe such violence took place in the laundries*."[55] Yet, the letter continues, in relation to the Magdalene

[46] See: *Magdalen Home Rules and Horarium,* cited at IDC Report, Chapter 19, paras 139-142.
[47] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, paras 44-47.
[48] [**VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, paras 48-49; see also: *Magdalen Home Rules and Horarium,* cited at IDC Report, Chapter 19, paras 139-142.
[49] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 35.
[50] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 38.
[51] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 43.
[52] [**VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, paras 72-78; see also: *Magdalen Home Rules and Horarium,* cited at IDC Report, Chapter 19, para 144.
[53] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, para 37.
[54] Ireland's Submission, para 104.
[55]**[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, paras 134, 985.

Laundries, "*Women have often described getting a "thump in the back" or their hair pulled in retaliation for answering back but physical violence from the nuns does not seem to have gone beyond this in most cases*." The IDC Report concludes that "*Ms Mulready and Ms Morgan express the view that 'this was a different, not a lesser, form of assault*'".[56]

2.6 The IDC Report reveals the following about the State's involvement in and awareness of conditions in the Magdalene Laundries:[57]

a. At least 26.5% of admissions for which the entry route was recorded were made or facilitated by State actors.[58] Although the State legislated for the use of Magdalene Laundries as places of detention or care in certain limited circumstances, the IDC Report provides evidence that State actors (including Gardaí) and other State institutions frequently placed girls and women in the institutions in contravention of or in the absence of authorising legislation.[59]

b. The State paid or enlisted members of lay organisations to place and supervise girls and women in Magdalene Laundries, e.g. members of the Legion of Mary, acting as voluntary probation officers under the Criminal Justice Administration Act 1914, and Inspectors of the National Society for the Prevention of Cruelty to Children acting as social workers.[60]

c. According to the IDC Report, the State legislated for the use of some Magdalene Laundries as places of detention, including for the purposes of detention on remand;[61] detention as a condition of probation;[62] detention as a condition of temporary release from prison;[63] and detention as a condition of bail or early release from prison.[64]

d. The State awarded laundry contracts to Magdalene Laundries on the basis of the nuns' tenders being the most competitive,[65] in the knowledge that the women and girls were receiving no wages for their work.[66] The IDC Report notes that the Magdalene Laundries did business with, among other State

[56] **[VOL C / TAB 77 / PAGES 1880-1913]:** IDC Report, Chapter 19, paras 135, 985.
[57] See Complaint, paras 7.2.2-7.2.3.
[58] **[VOL C / TAB 77 / PAGES 1496-1519]:** IDC Report, Chapter 8, para 19; **[VOL C / TAB 77]:** IDC Report, Executive Summary, para 5; Chapter 7, para 38; Chapter 8, para 19; Chapters 9-11: Pathways into Magdalene Laundries which were linked to and/or which were directly sanctioned by the State included through the criminal justice system (after being convicted of a crime by a court, while on probation, on remand, on release from prison and/or as a result of being placed there by the Gardaí, the Irish police force), through industrial and reformatory schools, through county homes and city homes (formerly workhouses), through health and social services, through psychiatric hospitals, and through mother and baby homes.
[59] See: **[VOL D / TAB 99 / PAGES 2623-2758]:** Irish Human Rights Commission, *IHRC Follow-Up Report on State Involvement with Magdalen Laundries*, June 2013, Chapters 3, 9.
[60] **[VOL C / TAB 77 / PAGES 1519-1579, 1634-1678]:** IDC Report, Chapter 9, 11.
[61] **[VOL C / TAB 77 / PAGES 1452-1484]:** IDC Report, Chapter 5, paras 10-14.
[62] **[VOL C / TAB 77 / PAGES 1452-1484]:** IDC Report, Chapter 5, paras 15-33.
[63] **[VOL C / TAB 77 / PAGES 1452-1484]:** IDC Report, Chapter 5, paras 34-38.
[64] **[VOL C / TAB 77 / PAGES 1452-1484]:** IDC Report, Chapter 5, paras 39-43; Chapter 9, paras 216-267.
[65] **[VOL C / TAB 77 / PAGES 1745-1789]:** IDC Report, Chapter 14, para 7.
[66] **[VOL C / TAB 77 / PAGES 1745-1789]:** IDC Report, Chapter 14, para 166-188.

entities, the Departments of Justice, Industry and Commerce, Finance, Local Government, Fisheries, Agriculture, Health, Social Welfare and Education; the Defence Forces; the Chief State Solicitors Office; Leinster House (parliament buildings); the Land Commission; the National Library; the Office of Public Works; CIE (the national transport authority); Áras an Uachtaráin (the President's residence); and numerous State-funded hospitals and clinics.

e. The State legislated to allow the non-payment of wages to girls and women in Magdalene Laundries. The Conditions of Employment Act, 1936, allowed for the non-payment of individuals working in institutions for "*charitable or reform*" purposes.[67]

f. The State legislated for, and made, direct payments to Magdalene Laundries, as "*extern institutions*", for the provision of social welfare assistance;[68] for the care and custody of women under the Health Acts, "*where public authorities would otherwise have had to make alternative arrangements for the maintenance of those persons*";[69] for certain remand and probation cases;[70] and for other, miscellaneous, purposes.[71] Chapter 11 of the IDC Report notes that Health Authorities often made grants to Magdalene Laundries because it was a cheaper alternative to providing care in a Health Authority institution.[72]

g. The State provided further financial support to the Magdalene Laundries through the conferring of charitable status and charitable tax exemptions on the Magdalene Laundries because they did not pay the women and girls who worked in the laundries and had as their aim "*the advancement of religion*";[73] the application of varying commercial rates;[74] and the failure to collect, or exemption from the requirement to pay, social insurance contributions on behalf of the girls and women living and working in the institutions (thus doubly depriving the girls and women of the proceeds of their labour).[75]

h. The State regulated the Magdalene Laundries as factory premises,[76] although the IDC Report notes that State records only show inspections of some Magdalene Laundries from 1957 onwards and only in respect of machinery and laundry premises rather than working and living conditions.[77]

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[67] **[VOL C / TAB 77 / PAGES 1452-1484]:** IDC Report, Chapter 5, paras 149-152.
[68]**[VOL C / TAB 77 / PAGES 1452-1484, 1634-1678]:** IDC Report, Chapter 5, 11.
[69] **[VOL C / TAB 77 / PAGES 1714-1745]:** IDC Report, Chapter 13, para 50.
[70] **[VOL C / TAB 77 / PAGES 1714-1745]:** IDC Report, Chapter 13, paras 121-127.
[71] **[VOL C / TAB 77 / PAGES 1714-1745]:** IDC Report, Chapter 13.
[72] **[VOL C / TAB 77 / PAGES 1634-1678]:** IDC Report, Chapter 11, para 211.
[73] **[VOL C / TAB 77 / PAGES 1789-1806]:** IDC Report, Chapter 15.
[74] **[VOL C / TAB 77 / PAGES 1789-1806]:** IDC Report, Chapter 15.
[75] **[VOL C / TAB 77 / PAGES 1789-1806]:** IDC Report, Chapter 15.
[76] This included the annual certification of children as fit to work (pursuant to the Conditions of Employment Act 1936, the Factory and Workshop Acts 1901-1920, the Factories Act 1950 and associated regulations, the Safety in Industry Act 1980, and the Safety, Health and Welfare at Work Act 1989).
[77] **[VOL C / TAB 77 / PAGES 1679-1714]:** IDC Report, Chapter 12, pp 522, 571, 573.

Mrs Coppin's personal experiences

2.7 Regarding Mrs Coppin's personal experiences, upon careful reading of Ireland's Submission, it appears that (save in respect of a minor point) Ireland does not dispute the standard to be applied by the Committee.[78] Instead, Ireland's real objections are that Mrs Coppin does not meet the standard. The State has three points in that regard. First, it contends that Mrs Coppin's treatment was insufficiently severe to come within the jurisdiction of the Committee.[79] Second, Ireland appears to take issue with the submission that Mrs Coppin's treatment entailed the involvement and acquiescence of the State.[80] Finally, Ireland contends that even if Mrs Coppin's treatment is sufficiently severe to amount to ill-treatment, it does not meet the threshold for torture.[81]

2.8 Mrs Coppin responds to each of these submissions, which are without merit, briefly below. In so doing, however, she also invites the Committee to review her Complaint, which comprehensively addresses the question of whether the Convention is engaged in her case at paragraphs 7.1.1-7.5.5. It is alarming that the State Party does not consider this treatment to engage the Convention, particularly given the repeated calls by this Committee and a large number of other Treaty Bodies and Special Procedures[82] for Ireland to fulfil its obligations to victims of internment in the Magdalene Laundries.

Severity

2.9 The essence of Ireland's first objection is that while it is accepted that the Magdalene Laundries "*were harsh and caused significant hurt to the women resident in those institutions*", the "*minimum level of severity has not been met in this instance*".[83]

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[78] See Ireland's Submission, para 99. Ireland contends that Article 3 of the Convention requires a complainant to demonstrate that the danger of being subjected to torture is foreseeable, present, personal and real. Ireland also argues that the European Convention on Human Rights requires those who complain of a breach of Article 3 of that Convention to establish beyond a reasonable doubt that they are a victim of torture or inhuman or degrading treatment or punishment. Both of the aforementioned contentions are irrelevant. The Complainant complains only of the breaches she has set out in her Complaint. She does not complain of a breach of Article 3 occurring at the present time nor of a breach of Article 3 of the European Convention on Human Rights. The relevant standards of proof and/or obligations are as follows: Article 12 is engaged where there is a *"...reasonable ground to believe"* an act of torture or ill-treatment has been committed (see Complaint, para 7.1.1); Article 12 is engaged where a complainant has alleged that he or she has been subjected to torture or ill-treatment; and Article 14 places an obligation on the State to provide redress for victims of such acts of torture or ill-treatment. There is good reason that the standard of proof under Articles 12-13 of the Convention are lower than Ireland contents at para 99 of its submission: the obligation to investigate does not only arise after ill-treatment or torture has been definitively proven.

[79] Ireland's Submission, Executive Summary para 13, paras 90-108.

[80] Ireland's Submission, paras 109-112.

[81] Ireland's Submission, paras 113-115.

[82] See Complaint, paras 4.12-4.15; **[VOL G / TAB 167 / PAGE 4831]:** Letter from Abdelwahab Hanni, Rapporteur for Follow-up to the Concluding Observations of the Committee against Torture, to H.E. Mr Michael Gaffney, 21 May 2019; **[VOL G / TAB 168 / PAGES 4834-4853]:** Maud de Boer-Buquicchio, Special Rapporteur on the sale and sexual exploitation of children, *Visit to Ireland Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material* A/HRC/40/51/Add.2*,* 15 November 2019, para 78(d).

[83] Ireland's Submission, para 96; Ireland also places reliance on the fact that the alleged instances occurred prior to signature and/or ratification of the Convention, which is said to be relevant, but no further explanation is provided. In circumstances where the Complaint is admissible *ratione temporis* the issue then is simply whether the alleged incidents amounted to ill-treatment for the purpose of Article 16.

2.10 Mrs Coppin submits that the matters set out at paras 7.3.1-7.3.11 of her Complaint, which are supported by the findings of the IDC Report, set out above, clearly and concretely establish that this threshold has been met. Mrs Coppin reiterates that as a vulnerable child she was locked up for over four years in Magdalene Laundries, without any knowledge of when she might be released and without any supervision of her detention by the State, having not committed any crime. Mrs Coppin was forced to sleep in a cell, locked and bolted from the outside. She was placed in solitary confinement as punishment. It has been acknowledged by Ireland that when Mrs Coppin was interned in the Magdalene Laundries, she was subjected to a "*harsh and physically demanding*" working regime,[84] for which no remuneration was ever given. Mrs Coppin was also given a different name (a man's name, Enda, which was both humiliating and associated with a previous abuser of hers), and had her hair forcibly cut.[85] Mrs Coppin was forced to wear sackcloth and was denigrated by members of the religious orders. Not only was she subjected to humiliating treatment at the time, as a child, she has been subjected to the stigma of having been interned in the Magdalene Laundries for the rest of her life.

2.11 It is necessary to emphasise that in assesing whether a minimun level of severity has been attained, an individual's personal characteristics are relevant. The fact that Mrs Coppin was a child when subjected to the treatment described adds even greater weight to her submission. The ECtHR has stated:

> *"As was emphasised by the Commission, ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3 (art. 3). The assessment of this minimum is, in the nature of things, relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim, etc."*[86]

and

> *"In other words, it remains to establish in the instant case whether the 'pain or suffering' inflicted…can be defined as 'severe' within the meaning of Article 1 of the United Nations Convention. The Court considers that this 'severity' is, like the 'minimum' severity required for the application of Article 3, in the nature of things, relative; it depends on all the circumstances of the case, such*

[84] Ireland's Submission, para 110.
[85] See Ireland's Submission, para 106, where Ireland makes a distinction between the Complainant's hair having been forcibly cut and forcibly sheared. The distinction appears to be made for the purpose of disputing the Complainant's account, as set out in her Complaint, that her hair was forcibly sheared, although the basis for disputing this allegation of fact is unclear.
[86] Appendices to Ireland's Submission, Tab 38: *Ireland v United Kingdom,* 18 January 1978, Series A, No 25, 2 EHRR 25, para 162.

as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim, etc.'[87]

2.12 Ireland contends that the treatment which Mrs Coppin suffered is not "*the type of treatment that has been found to fall within the definitions of either torture or cruel or inhuman or degrading treatment or punishment by the Committee or other similar mechanisms and/or Courts*".[88] Ireland provides no support for this assertion. Mrs Coppin highlights that:

a. Detention in conditions which deprive a person of the ability to meet their basic needs or which otherwise interfere with human dignity is a paradigmatic "*type*" of treatment capable of violating the anti-torture norm.[89]

b. The ECtHR has held that "*in respect of a person deprived of his liberty, recourse to physical force which has not been made strictly necessary by his own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3*".[90] According to the ECtHR, where this occurs it is not necessary to show that the use of force caused injury.[91] Relatedly, the ECtHR has held that physical restraint in the detention context "*is a serious measure which must always be justified by preventing imminent harm to the patient or the surroundings and must be proportionate to such an aim*".[92] Mrs Coppin contends that her forced labour and servitude constituted physical force, and physical violence. The Committee will note from Mrs Coppin's Witness Statement that the industrial laundry work which as a child she was required to perform daily was "*exhausting*", "*heavy and very hard work*", which also caused her "*pains in [her] legs*".[93] Mrs Coppin further reminds the Committee that she experienced nightly restraint in a small cell locked and bolted from the outside, and that she was also placed in solitary confinement for three days and three nights, in the first Magdalene Laundry.[94]

c. Deprivation of liberty, in and of itself, has also been recognised as being capable of amounting to ill-treatment in certain circumstances. The Special Rapporteur on Torture has highlighted that torture or ill-treatment may occur

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87 [**VOL G / TAB 169 / PAGES 4854-4879]:** *Selmouni v France,* no. 25803/94, ECtHR, 28 July 1999, para 100.

88 Ireland's Submission, para 96.

89 See for example, [**VOL G / TABS 170-173 / PAGES 4880-4928]:** *Price v United Kingdom* no 33394/96, ECHR 2001-VII; *Fedotov v Russia,* no. 5140/02, ECtHR, 25 October 2005; *Slyusarev v Russia*, no. 60333/00, ECtHR, 20 April 2010; HRC, *Zephiniah Hamilton (represented by counsel of the London law firm Macfarlanes) v Jamaica*, Communication No 616/1995 (28 July 1999) UN Doc CCPR/C/66/D/616/1995, para 8.2.

90 [**VOL G / TAB 174 / PAGES 4934-4960]:** *Ribitsch v Austria,* no. 18896/91, ECtHR, 4 December 1995, para 38.

91 [**VOL G / TAB 175 / PAGES 4961-4993]:** *Bures v Czech Republic,* no. 37679/08, ECtHR, 18 October 2012, paras 78, 80.

92 [**VOL G / TAB 175 / PAGES 4961-4993]:** *Bures v Czech Republic*, no. 37679/08. ECtHR, 18 October 2012 para 96.

93 **[VOL A / TAB 2 / PAGES 1-19]:** Statement of Elizabeth Coppin, 12 July 2018, paras 18, 32.

94 Complaint, paras 6.3.4-6.3.5; **[VOL A / TAB 2 / PAGES 1-19]:** Statement of Elizabeth Coppin, 12 July 2018, paras 20, 22-24.

in care settings in the form of "*institutionalization of individuals who do not meet appropriate admission criteria, as is the case in most institutions which are off the monitoring radar and lack appropriate admission oversight*".[95] According to the Special Rapporteur, "*[i]nappropriate or unnecessary non-consensual institutionalization of individuals may amount to torture or ill-treatment as use of force beyond that which is strictly necessary*".[96] In *Mouisel v France*, the ECtHR held that the continued detention in prison of a 53-year-old man who was suffering from cancer amounted to inhuman and degrading treatment because it "*undermined his dignity and entailed particularly acute hardship that caused suffering beyond that inevitably associated with a prison sentence and treatment for cancer*".[97] In *C v Australia*, the HRC held that the arbitrary detention of an asylum seeker violated not only Article 9 ICCPR but also Article 7 ICCPR because of its psychological impact.[98] The African Commission on Human and People's Rights has found that "*holding an individual without permitting him or her to have any contact with his or her family, and refusing to inform the family if and where the individual is being held, is inhuman treatment of both the detainee and the family concerned*."[99]

2.13 The State Party's misconceived attempts to undermine Mrs Coppin's credibility fail for the following reasons:

a. Ireland contends that Mrs Coppin was not *as young* as the complainant in *VK*.[100] This assertion is true but irrelevant. Mrs Coppin was young, powerless and dependent on the State and the religious congregations, and therefore in a situation of heightened vulnerability.

b. Ireland also contends that Mrs Coppin has provided less evidence than the complainant in *VK.*[101] Even if that were true, which is not established, it is clear that the State and the nuns have frustrated her attempts to obtain further evidence.[102] In any event, Mrs Coppin has provided a wealth of supplementary documents detailing her complaint to the Committee, including a Medico-Legal Report compiled by a relevant expert. It would not be in the interests of justice for Mrs Coppin to be required to provide more evidence to the Committee,

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[95] **[VOL G / TAB 176 / PAGES 4994-5016]:** Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/22/53, 1 February 2013, para 70.
[96] **[VOL G / TAB 176 / PAGES 4994-5016]:** Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/22/53, 1 February 2013, para 70, citing *Mouisel v France,* no. 67263/01, ECHR 2002-IX, and Nell Monroe, 'Define acceptable: how can we ensure that treatment for mental disorder in detention is consistent with the UN Convention on the Rights of Persons with Disabilities?' (2012) 16(6) The International Journal of Human Rights 902.
[97] **[VOL G / TAB 177 / PAGES 5017-5039]:** *Mouisel v France,* no. 67263/01, ECHR 2002-IX, para 48.
[98] **[VOL G / TAB 178 / PAGES 5040-5074]:** HRC, *C v Australia*, no 900/1999 (28 October 2002) UN Doc CCPR/C/76/D/900/1999 para 8.4.
[99] **[VOL G / TAB 179 / PAGES 5075-5089]:** *Amnesty International, Comité Loosli Bachelard, Lawyers Committee for Human Rights, Association of Members of the Episcopal Conference of East Africa v Sudan*, nos 48/90, 50/91, 89/93 (15 November 1999) para 54.
[100] Ireland's Submission, para 98.
[101] Ireland's Submission, para 98.
[102] Complaint, para 8.2.12.

especially in circumstances where the State and the nuns have either destroyed records or frustrated efforts to access them.

c. As to the suggestion that Mrs Coppin's evidence is "*not consistent*"[103], the alleged discrepancies the State identifies – such as the difference between her hair being forcibly cut and forcibly sheared – are not discrepancies at all and have no effect on Mrs Coppin's general credibility, which must be accepeted.[104]

d. Ireland finally relies on the fact that there have been no findings by domestic authorities in relation to that treatment in Mrs Coppin's favour.[105] This is a circular argument which has no merit. At the heart of Mrs Coppin's complaint is the fact that the State Party has taken insufficient action in relation to her allegations. It is the nature of the breach alleged — it is not a reason to avoid the application of the Convention at all. Indeed, the flaw in the State party's argument is apparent when its logical implications are considered: if the State party is correct, when a victim complains that her ill-treatment and/or torture has not been properly investigated, the State can avoid the application of the Convention at all by stating that no investigations have concluded that there has been ill-treatment. Such an approach would make a mockery of the Convention (and the explicit wording of Article 12, which refers to "*reasonable grounds to believe*" that torture or ill-treatment has been committed) as well as the Committee, and inevitably it must be rejected.

2.14 At paragraph 92 of its Submission, Ireland relies upon *Ireland v United Kingdom.*[106] Through its reliance on that judgment, it appears that Ireland concurs with the position advanced by Mrs Coppin that there need not be evidence of bodily injury or even acts of physical violence in order for the threshold of severity to be reached and for conduct to constitute ill-treatment for the purpose of either the European Convention of Human Rights or indeed, the Convention. In addition, the ECtHR has confirmed that, "*Even in the absence of actual bodily harm or intense physical or mental suffering, treatment which humiliates or debases an individual, showing a lack of respect for or diminishing his or her human dignity, or which arouses feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance, may be characterised as degrading and also fall within the prohibition set forth in Article 3*".[107] Furthermore, even in the absence of an intent to cause harm, the ECtHR has in certain circumstances found institutional conditions to constitute degrading treatment.[108]

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[103] Ireland's Submission, para 98.
[104] Ireland's Submission, para 106.
[105] Ireland's Submission, para 98.
[106] Appendices to Ireland's Submission, Tab 38: *Ireland v United Kingdom,* 18 January 1978, Series A, No 25, 2 EHRR 25.
[107] **[VOL G / TAB 182 / PAGES 5118-5175]:** *Volodina v Russia,* no 41261/17, ECtHR, 9 July 2019, para 73.
[108] See for example **[VOL G / TAB 170 / PAGES 4880-4895]:** *Price v United Kingdom* (2002) 34 EHRR 53, para 24; *Peers v Greece* (2001) 33 EHRR 51, paras 67-68, 74.

2.15 In any event, Mrs Coppin maintains that the forced labour to which she was subjected constitutes physical violence, properly speaking. This is apparent from the definition of "*violence*" provided by the Istanbul Convention:

> *"…'violence against women' is understood as a violation of human rights and a form of discrimination against women shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."*[109]

Involvement of the State

2.16 The second limb of Ireland's objection is its submission that there was insufficient State involvement to engage the Convention.[110]

2.17 In this regard, the Committee will recall its statements in General Comment No 2:

> "*Where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity the State's indifference or inaction provides a form of encouragement and/or de facto permission.*" [111]

2.18 Mrs Coppin's treatment was not an isolated, once-off criminal act by a private individual. The Magdalene Laundries were publicly recognised institutions that were not only tolerated by the State, but which operated with significant State involvement (as clearly demonstrated by the IDC Report). The detention of Mrs Coppin and the treatment she was subjected to were imposed upon her with the direct involvement of the State. Ireland's contentions to the contrary are remarkable, and should be dismissed.

2.19 First, Ireland seeks to undermine the findings of the IDC Report on which it otherwise places heavy reliance. Yet the only investigation commissioned by the State party into

[109] **[VOL G / TAB 183 / PAGES 5176-5200]:** Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul 11.V.2011, art 3.
[110] Ireland's Submission, paras 109-112.
[111] **[VOL A / TAB 96 / PAGES 2439-2513]:** General Comment no 2, *Implementation of Article 2 by State Parties,* UN Doc CAT/C/GC/2, 24 January 2008, para 18.

the operation of the Magdalene Laundries was into State involvement in the Laundries. That was the explicit mandate of the Inter-Departmental Commission, as explained above. The findings were of direct and significant State involvement. Those findings, summarised above, were not qualified. Ireland's arguments thus fall to be dismissed.

2.20 Second, and in any event, the circumstances of Mrs Coppin's individual case clearly engage the standard of state involvement. As set out in General Comment No 2, para 19 **[D/96/2441]**:

> *"Additionally, if a person is to be transferred or sent to the custody or control of an individual or institution known to have engaged in torture or ill-treatment, or has not implemented adequate safeguards, the State is responsible, and its officials subject to punishment for ordering, permitting or participating in this transfer contrary to the State's obligation to take effective measures to prevent torture in accordance with article 2, paragraph 1. The Committee has expressed its concern when States parties send persons to such places without due process of law as required by articles 2 and 3."*[112]

2.21 Mrs Coppin clearly satisfies that standard. As explained in paras 7.2.5-7.2.9 of her Complaint, not only was she originally removed from her family by the State with the imprimatur of the District Court, but the Department of Education explicitly consented to Mrs Coppin's transfer to the first Magdalene Laundry.[113] Moreover, upon running away from the first Magdalene Laundry, Mrs Coppin was apprehended by the Gardaí.[114] Several months later, Mrs Coppin was taken to the second Magdalene Laundry by an officer of the ISPCC, Inspector O'Callaghan.[115] As the IDC Report explains, officers of the ISPCC frequently acted on behalf of the State.[116]

2.22 The State therefore participated directly in Mrs Coppin's placement into a network of punitive, carceral, exploitative Magdalene institutions. What is more, the State did so in the absence of legal safeguards. Ireland's Submission highlights that, "*There was no specific statutory framework under which individuals could be committed to a Magdalen Laundry*",[117] and that "*Magdalen Laundries were not subject to inspection by the State in a manner similar to residential institutions operated for and on behalf of the State Party*".[118] That is not a point in its favour.

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[112] **[VOL A / TAB 96 / PAGES 2439-2513]:** General Comment no 2, *Implementation of Article 2 by State Parties,* UN Doc CAT/C/GC/2, 24 January 2008, para 19.
[113] [**VOL B / TAB 64 / PAGES 1310-1331]:** Records relating to detention of Elizabeth Coppin in Magdalene Laundries, 1964-1968, p 1331.
[114] **[VOL A / TAB 2 / PAGES 1-19]:** Statement of Elizabeth Coppin, 12 July 2018, paras 27-28.
[115] **[VOL A / TAB 2 / PAGES 1-19]:** Statement of Elizabeth Coppin, 12 July 2018, paras 29-30; see also [**VOL B / TAB 64 / PAGES 1310-1331]:** Records relating to detention of Elizabeth Coppin in Magdalene Laundries, 1964-1968.
[116] [**VOL C / TAB 77 / PAGES 1452-1484]:** IDC Report, Chapter 5, para 84.
[117] Ireland's Submission, para 16.
[118] Ireland's Submission, para 17.

2.23 The Irish Department of Education authorised Mrs Coppin's transfer to the first Magdalene Laundry. It is important for the Committee to note that the Children Act 1908 as amended did not permit detention of children in Magdalene Laundries, though the police investigation and the IDC incorrectly assert that it did.[119] Mrs Coppin's detention in each Magdalene Laundry clearly violated the requirements of the Children Act 1908 as amended by the Children Act 1941. This legislation is discussed in Chapter 5 of the IDC Report and its relevance to Mrs Coppin's case is briefly as follows:

a. Section 65 of the Children Act 1908 (as amended by the Children Act 1941) required that the period of a child's detention in an industrial school be set out in the court-issued detention order.[120] In Mrs Coppin's case, the Order of Listowel District Court on 4 August 1951 specified that her detention in Pembroke Alms Industrial School Tralee was to last "*until but not including the* ███ *1965*".[121]

b. Section 67 of the Children Act 1908 (as amended by the Children Act 1941) allowed for the placing out "*on licence*" of a child in an Industrial School. The wording of this legislative provision makes clear that power to place a child out on licence was coterminous with the period during which a child "*is detained in a certified school*".[122] Furthermore, according to section 67(1), the act of placing a child "*on license*" was meant to "*permit the …child to live with any trustworthy and respectable person named in the license and willing to receive and take charge of him*". There is no mention in the legislation of a children being detained while out "*on licence*".

c. The above-mentioned section 67 appears to be the purported legislative basis upon which a notice of release on supervision which stated, "*Licenced to Superioress, St Mary's Convent, St Mary's Road, Cork: Sent there for protection as she was very bold*",[123] was issued and approved by Department of Education personnel. However, this notice of release on supervision did not make any reference to further detention. Furthermore, Mrs Coppin was detained in the first Magdalene Laundry well beyond the expiry date of the original court order, i.e. her 16th birthday on ███ 1965. It was not until 13 August 1966, aged

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[119] **[VOL C / TAB 77 / PAGES 1452]:** IDC Report, Chapter 5, Summary.

[120] **[VOL G / TAB 166 / PAGES 4747-4830:** Children Act 1908, s 65 states: *"The detention order shall specify the time for which the youthful offender or child is to be detained in the school, being…(b) in the case of a child sent to an industrial school, such time as to the court may seem proper for the teaching and training of the child, but not in any case extending beyond the time when the child will, in the opinion of the court, attain the age of sixteen years."*

[121] **[VOL B / TAB 56 / PAGES 1116-1130]:** *Records relating to Industrial school detention of Elizabeth Coppin,* p 1129.

[122] See Children Act 1908, s 67(1), cited in **VOL C / TAB 77 / PAGES 1452-1484]:** IDC Report, Chapter 5, pp 94-95.

[123] **[VOL B / TAB 64 / PAGES 1310-1331]:** *Records relating to detention of Elizabeth Coppin in Magdalene Laundries,* p 1331.

17, that Mrs Coppin managed to escape out a window of the first Magdalene institution.[124]

d. Regarding Mrs Coppin's experiences after her 16th birthday, section 68 of the Children Act 1908 as amended by the Children Act 1941 established a "*supervision*" period following the expiration of the period of a child's detention in an Industrial School.[125] It is perfectly clear from the distinction in this section of the 1908 Act between being granted a "*licence*" during the supervision period, versus being "*recalled*" and "*detained*" again in the Industrial School upon the licence being revoked, that the granting of a "*licence*" during the supervision period was not intended to involve detention in an institution.

Torture

2.24 As to the question of whether the treatment in question amounts to ill-treatment or torture (which Ireland asserts is unclear),[126] this is ultimately a matter for the Committee, however, Mrs Coppin maintains a clear position in respect of this issue – the treatment amounted to, at the very least, degrading treatment,[127] and almost certainly torture.[128] Only the former is required for Mrs Coppin's complaints to succeed.[129] Mrs Coppin does contend, however, that her treatment is properly to be considered 'torture' under the definition in the Convention.

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[124] There is no evidence that Mrs Coppin's sentence of detention was extended by the Minister for Education for one year beyond her 16th birthday in accordance with the Children Act 1941, s 12, which provided as follows:
"12.(1) The Minister may direct that the time for which any child shall be detained in an industrial school under a detention order shall be extended, to such extent as the Minister thinks proper, for the purpose of the completion by such child of any course of education or training and thereupon such detention order shall, notwithstanding anything contained in section 65 of the Principal Act, have effect as if altered so as to conform with the terms of such direction and such child shall be detained accordingly.
(2) The Minister shall not give a direction under this section save with the consent of the parents, surviving parent, mother (in the case of an illegitimate child), or guardian of the child to whom such direction relates.
(3) The Minister shall not give a direction under this section having the effect of extending the detention of the child to whom such direction relates beyond the time when such child will, in the opinion of the Minister, attain the age of seventeen years."
[125] See Children Act 1908, s 68, cited in **VOL C / TAB 77 / PAGES 1452-1484]:** IDC Report, Chapter 5, pp 98-100.
[126] Ireland's Submission, paras 90-91.
[127] Complaint, paras 7.1.1-7.5.5.
[128] Complaint, para 7.3.11.
[129] Ireland's Submission, para 142: Ireland contends that Article 14 only applies to treatment which reaches the threshold to be defined as torture and not to ill-treatment. This is contradicted by General Comment no 3, *Implementation of article 14 by State parties,* UN Doc CAT/C/GC/3, 13 December 2012, para 1, see [**VOL B / TAB 51 / PAGE 1070-1080].** The Committee has also recognised, for example, in *Dzemajl and Ors v Yugoslavia,* UN Doc CAT/C/29/D/161/2000, 2 December 2002, para 9.6, see [129] [**VOL G / TAB 192 / PAGES 5694-5704]**, that positive obligations flow from Article 16 itself and include an obligation to grant redress and compensate victims of acts that amount to treatment falling under Article 16 but which do not constitute torture: *"Concerning the alleged violation of article 14 of the Convention, the Committee notes that the scope of application of the said provision only refers to torture in the sense of article 1 of the Convention and does not cover other forms of ill-treatment. Moreover, article 16, paragraph 1, of the Convention while specifically referring to articles 10, 11, 12, and 13, does not mention article 14 of the Convention. Nevertheless, article 14 of the Convention does not mean that the State party is not obligated to grant redress and fair and adequate compensation to the victim of an act in breach of article 16 of the Convention. The positive obligations that flow from the first sentence of article 16 of the Convention include an obligation to grant redress and compensate the victims of an act in breach of that provision. The Committee is therefore of the view that the State party has failed to observe its obligations under*

2.25 Mrs Coppin reiterates the submissions she made at paras 7.5.1-7.5.5 of her Complaint, which highlighted that her internment was for punishment, and that it was discriminatory: the satisfaction of either criterion is sufficient. Ireland's submissions to the contrary are misconceived, as explained below.[130]

2.26 First, it appears to be suggested that Mrs Coppin has not suffered treatment of "*special gravity"* or "*severe suffering*".[131] That is not borne out by the evidence in this case. Mrs Coppin's treatment was prolonged for four years, as a child, at a time when she was in a vulnerable situation and has, as clearly evidenced in her own statement, and that of the Medico-Legal Expert, caused her very significant pain and suffering throughout her life.

2.27 Second, Ireland disputes that the reason that Mrs Coppin was sent to the Magdalene Laundries was punishment.[132] However, in so doing, Ireland refers to her (earlier) placement in a County Home, and <u>not</u> her transfer to a Magdalene Laundry. It is contended that there is "*no evidence*" to suggest that her transfer to a Magdalene Laundry was based on punishment. This is simply incorrect on the facts: as indicated on the "*particulars of disposal*" which indicates the basis for Mrs Coppin's admission to the Laundries, it states that she was "*sent there for protection as she was very bold*", and it is below stated that "*Elizabeth was very hard to control*".[133] The term 'bold', as an Irish colloquialism, refers to a person being badly behaved. It is plain, therefore, that sending her to the Laundries was a punishment for her 'bold' behaviour.

2.28 Third, the State party also disputes that this punishment was linked to discrimination. Ireland contends that the "*Complainant does not present any evidence which would show that she was subject to the acts complained of by reason of her gender*".[134] With respect, this submission is difficult to comprehend. The Magdalene Laundries were set up for girls and women, and only for girls and women. The treatment of Mrs Coppin was acutely gendered, as was the stigma she has subsequently faced from her time interned in the Laundries. The position adopted by Mrs Coppin in this regard is supported by the definition of gender-based violence provided for in the Istanbul Convention, which states that it, *"...shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately."*[135] The suggestion that Mrs Coppin is required to present contemporaneous evidence that the

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article 16 of the Convention by failing to enable the complainants to obtain redress and to provide them with fair and adequate compensation."

[130] Ireland's Submission, paras 92-93: Ireland places considerable reliance on jurisprudence emanating from the ECtHR in respect of the distinction between torture and other acts of inhuman or degrading treatment or punishment. This distinction is jurisprudentially separate from that which arises under the Convention in issue here.

[131] Ireland's Submission, para 93.

[132] Ireland's Submission, paras 113-114.

[133] **[VOL B / TAB 61 / PAGE 1187]:** *Notice of Discharge, Release on Supervision, Transfer, Absconding, Hospitalisation and all Recalls, Re-admissions etc,* 4 April 1964.

[134] Ireland's Submission, para 115.

[135] **VOL G / TAB 183 / PAGES 5176-5200]:** Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul 11.V.2011, art 3.

treatment she suffered was deliberately discriminatory (as appears to be suggested at para 15 of the State party's submission) has no basis in authority. As far as discrimination on the basis of gender is concerned, the objective evidence speaks for itself. To require the perpetrator of abuse to have admitted its discriminatory purpose at the time of the abuse is to set the evidentiary threshold impossibly high. The Committee will recall its statement in General Comment No 2 (at para 9) that the "*elements of intent and purpose in Article 1 do not involve a subjective inquiry into the motivations of the perpetrators, but rather must be objective determinations under the circumstances*".[136]

2.29 For these reasons, Mrs Coppin maintains that her treatment is properly to be considered 'torture' as defined in the Convention.[137]

3. BREACH OF ARTICLES 12 AND 13

3.1 Mrs Coppin's Complaint contends that Ireland has violated Articles 12 and 13 of the Convention by reason of its ineffective police investigations, the barriers which it has erected to Mrs Coppin accessing the civil courts, and its refusal to investigate the structural, institutional and systemic aspects and causes of Mrs Coppin's experiences of torture and ill-treatment. Mrs Coppin thus engages her own experience, but also placed emphasis on the State Party's general failure to consider the rights of victims of the Magdalene Laundires.

3.2 Ireland argues, in its defence, that it has conducted effective investigations and provided Mrs Coppin with access to justice through all of the above-mentioned mechanisms.[138] Ireland maintains that it has ensured (1) thorough criminal justice inquiries,[139] (2) proper functioning of civil court procedures,[140] and (3) an effective inquiry by the IDC into the facts of the Magdalene Laundries system.

3.3 At the same time, however, Ireland also argues that the criminal investigation conducted between 1998 and 2000 on its own "*meets the obligation contained in Articles 12 and 13 of the Convention*".[141] Ireland rejects Mrs Coppin's contention that any other form of investigation is required by Articles 12 or 13 (or Article 14) of the Convention. Ireland states that "*In the context of the individual complaint made by the Complainant, the relevant '*truth telling*' process by which individuals could be identified would be a criminal trial which is, clearly, impossible*".[142]

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[136] **[VOL A / TAB 96 / PAGES 2439-2513]:** General Comment no 2, *Implementation of Article 2 by State Parties,* UN Doc CAT/C/GC/2, 24 January 2008, para 9.
[137] Mrs Coppin also notes that, insofar as Ireland relies upon the distinction under other instruments, there is not a direct correlation between the Convention and other international instruments and/or materials, for example, the ECHR, in respect of the said distinction.
[138] Ireland's Submission, para 119.
[139] Ireland's Submission, paras 48-60.
[140] Ireland's Submission, paras 62-64.
[141] Ireland's Submission, para 134.
[142] Ireland's Submission, para 153.

Insufficiency of a police investigation alone in circumstances of systemic, institutional abuse

3.4 Ireland is incorrect in arguing that "*There is no authority for the proposition that Article 12 or 13 of the Convention mandates a particular type of inquiry to be undertaken*".[143]

3.5 On their face, Articles 12 and 13 of the Convention are not detailed regarding the characteristics of an effective investigation and complaint mechanism. However, these provisions must be read in light of Article 14 and also General Comment No 3.[144] Mrs Coppin's Complaint at paragraphs 8.2.1 to 8.2.3 highlights the importance to her of all aspects of the "*comprehensive reparative concept*" espoused by the Committee in its General Comment No 3 — most notably the rights to satisfaction, and rehabilitation and guarantees of non-recurrence, on account of the systemic, structural, deep-seated and discriminatory nature of the system of abuse which the Magdalene Laundries constituted. Even <u>if</u> the investigation by An Garda Síochána had itself been detailed (which it was not), or had brought about prosecutions (which it did not), it would not have been a sufficient vehicle to ensure "*full and public disclosure of the truth*" or "*judicial and administrative sanctions*" or "*acknowledgement of the facts and acceptance of responsibility*" regarding all aspects of Mrs Coppin's experience of torture and/or ill-treatment.[145]

3.6 The *Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*,[146] provide guidance regarding the remit and purposes of an effective investigation of torture or other ill-treatment. According to Principle 1:

a. First, the investigation must provide clarification of the facts and establishment and acknowledgement of individual <u>and</u> State responsibility for victims and their families;

b. Second, the investigation must lead to the identification of measures needed to prevent recurrence; and

c. Third, the investigation should facilitate prosecution and/or, as appropriate, disciplinary sanctions for those who are identified through the investigation as being responsible. Full reparation and redress from the State must also flow from the investigation, including fair and adequate financial compensation and provision of the means for medical care and rehabilitation.

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[143] Ireland's Submission, para 155.

[144] **VOL B / TAB 51 / PAGE 1070-1080]:** General Comment no 3, *Implementation of article 14 by State parties,* UN Doc CAT/C/GC/3, 13 December 2012.

[145] Complaint, para 8.2.3.

[146] **[VOL E / TAB 127 / PAGES 3470-3471]:** Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Recommended by General Assembly resolution 55/89 of 4 December 2000.

3.7 The investigation carried out by An Garda Síochána could never have achieved anything beyond establishing individual culpability. Even if effective and culminating in prosecutions, an investigation carried out by criminal law enforcement agents, of the kind carried out the Gardaí, would not deal with the systemic or structural nature of the abuse perpetrated and/or the acquiescence in, and significant involvement of, State institutions in facilitating Mrs Coppin's treatment. On this point, Principle 5 provides:

> *"5.(a) In cases in which the established investigative procedures are inadequate because of insufficient expertise or suspected bias, or because of the apparent existence of a pattern of abuse or for other substantial reasons, States shall ensure that investigations are undertaken through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognized impartiality, competence and independence as individuals. In particular, they shall be independent of any suspected perpetrators and the institutions or agencies they may serve. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided for under such Principles.*
>
> *(b) A written report, made within a reasonable time, shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. Upon completion, the report shall be made public. It shall also describe in detail specific events that were found to have occurred and the evidence upon which such findings were based and list the names of witnesses who testified, with the exceptions of those whose identities have been withheld for their own protection. The State shall, within a reasonable period of time, reply to the report of the investigation and, as appropriate, indicate steps to be taken in response."*[147]

3.8 Ireland appears to accept that an inquiry "*relating to institutions and the abuse which may have occurred in those institutions*" is particularly important where abuse is systematic and structural, as well as in circumstances where alleged perpetrators may be dead.[148]

Passing of time

3.9 As another preliminary matter, Mrs Coppin wishes to address the issue of the passing of time, which the Gardaí and DPP between 1998 and 2000, and Mr Justice Peter Kelly

[147] **VOL E / TAB 127 / PAGES 3470-3471]:** Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Recommended by General Assembly resolution 55/89 of 4 December 2000, Principle 5.
[148] Ireland's Submission, para 132.

in the High Court in 2001, determined to be a key reason why neither criminal nor civil judicial proceedings could or should proceed.[149]

3.10 Because there exists copious documentary and testamentary evidence regarding torture and ill-treatment in Magdalene Laundries, which the State Party has to this day neither evaluated nor published to the fullest extent possible, Mrs Coppin does not accept that the passage of time had, prior to 11 May 2002, or thereafter, rendered impossible (1) a thorough and impartial criminal justice investigation into her complaints, (2) a fair trial of, in particular, institutional defendants in the civil courts, or (3) the effective functioning of a commission of inquiry into the structural, institutional and systemic elements of her abuse. However, to the extent that investigations and judicial examinations of Mrs Coppin's complaints were, or have been, made more difficult due to the passing of time and the death of some relevant persons, responsibility lies squarely at the feet of the State party.

3.11 Ireland did not exercise due diligence to prevent, investigate, prosecute and punish the torture and ill-treatment occurring in Magdalene Laundries at the time of its occurrence, despite knowing about and participating directly in it. It is not in dispute that the State party was aware of the treatment of Mrs Coppin at the relevant time. As such, it was not necessary for Mrs Coppin to have raised the matters in question with the State party: it was already aware of and directly involved in them.

3.12 Ireland has produced no evidence that the Gardaí took steps proactively to investigate the Magdalene Laundries abuse prior to Mrs Coppin making her complaints to Gardaí in 1997 and 1998. As pointed out at para 8.1.2 of Mrs Coppin's Complaint, neither Article 12 nor Article 13 requires the formal lodging of a complaint of torture or ill-treatment. Principle 2 UNGA Res 55/89 also provides that "*States shall ensure that complaints and reports of torture or ill-treatment are promptly and effectively investigated. Even in the absence of an express complaint, an investigation shall be undertaken if there are other indications that torture or ill-treatment might have occurred*".[150] Mrs Coppin's arbitrary detention and condition of servitude was known to the State: indeed, Department of Education personnel, the Gardaí and the ISPCC were directly involved in her placement in Magdalene Laundries.

3.13 To this day, Ireland has not granted access to State archives relating to the Magdalene Laundries, and the archives of the relevant religious bodies are also closed. Ireland's Submission acknowledges this.[151] Mrs Coppin attempted to bring her civil action in the absence of any surrounding or prior efforts by the State Party to ensure truth-telling.

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[149] See: Ireland's Submission: Letter from the Director of Public Prosecutions to Gardaí, 7 September 1999; Report of Detective Sergeant J███ B█████, 1 December 1998; *Elizabeth Coppin v Cora McCarthy, Alice Doherty, Claire O'Sullivan and Enda O'Sullivan*, note of *Ex Tempore* Judgment of Mr Justice Peter Kelly, 23 November 2001.

[150] **VOL E / TAB 127 / PAGES 3470-3471]:** Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Recommended by General Assembly resolution 55/89 of 4 December 2000, Principle 2.

[151] Ireland's Submission, para 156.

Access to these administrative archives would without doubt have strengthened Mrs Coppin's ability to substantiate her complaints against religious and state institutions, even if not individuals, in the civil courts.

3.14 General Comment No 3 highlights that, in addition to States Parties being obliged to investigate even in the absence of a complaint when there is "*reasonable ground to believe*" that torture or ill-treatment has occurred, they must also ensure that complaints mechanisms are "*made known and accessible to the public…and to persons belonging to vulnerable or marginalized groups*".[152] Mrs Coppin acted swiftly in complaining to the Gardaí once she had seen a television programme documenting the abuses that many children suffered in Church-run residential institutions. Had the State Party made efforts to invite complaints from women formerly detained in Magdalene Laundries at any stage in the decades prior to Mrs Coppin's Garda complaints, she might have understood sooner that she could and should complain.

Garda investigation

Non-disclosure

3.15 UNGA Res 55/89 makes clear that in order for the investigation conducted by Gardaí to satisfy Article 12 of the Convention, Mrs Coppin should have been kept sufficiently informed of any developments in the investigation (or lack thereof), effectively engaged with by members of An Garda Síochána, and facilitated in playing a central role in the investigation carried out by the State Party's law enforcement agency. Principle 4 of Resolution 55/89 states: *"Alleged victims of torture or ill-treatment and their legal representatives shall be informed of, and have access to… all information relevant to the investigation, and shall be entitled to present their evidence."*[153] The ECtHR has espoused a similar requirement of an effective investigation, holding that the victim must be involved to the extent necessary to safeguard their legitimate interests.[154]

3.16 It is only now, appended to its Submission, that Ireland has disclosed to Mrs Coppin any detail of the investigative steps taken by the Gardaí and DPP between 1998 and 2000 in response to Mrs Coppin's criminal complaints of 1997 and 1998. This is the first time Mrs Coppin has seen the material in the Garda file that did not originate from her. Among the documents that Mrs Coppin had not seen is Sr Enda O'Sullivan's statement. Its concealment for over two decades, and its release only now, has caused Mrs Coppin considerable shock and distress.

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[152] **VOL B / TAB 51 / PAGE 1070-1080]:** General Comment no 3, *Implementation of article 14 by State parties,* UN Doc CAT/C/GC/3, 13 December 2012, para 23.

[153] **VOL E / TAB 127 / PAGES 3470-3471]:** Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Recommended by General Assembly resolution 55/89 of 4 December 2000, Principle 4.

[154] See for example [154]**[VOL G / TAB 184 / PAGES 5201-5244]**: *Güleç v Turkey,* no. 54/1997838/1044, ECtHR, 27 July 1998; *El Masri v Macedonia,* no. 39630/09, ECtHR, 13 December 2012; *Edwards v the United Kingdom*, no. 46477/99, ECtHR, 14 March 2002, para 84.

3.17 The file now disclosed shows that Mrs Coppin received one telephone call, in mid-1999, from Garda N[redacted] B[redacted] in Tralee Garda Station to tell her that her complaints of assault would not be progressed.[155] A letter from the DPP to the Gardaí on 7 September 1999 chastised the Gardaí for revealing any level of detail to Mrs Coppin: "*The injured party has written… suggests that she was told the reasons why a prosecution would not be undertaken. It should be emphasized to the Gardai that directions from this Office to them are confidential and should not be disclosed.*"[156]

3.18 Notably, the State Party is still withholding records created by the DPP setting out its reasoning for not progressing any prosecution in Mrs Coppin's case. Ireland's Submission states that the DPP acted in accordance with the Guidelines for Prosecutors, but there is no way to test or interrogate this assertion.[157] The State Party contends, for example, that "*The [DPP] also considered whether criminal charges could be brought in relation to the allegations of intellectual deprivation, social deprivation and verbal abuse and determined that the complaint did not disclose any criminal offence under these headings*."[158] Neither Mrs Coppin nor her legal representatives have this record. The letter of 7 September 1999 from the DPP to the Gardaí refers to the DPP's letter of 13 January 1999 which "*indicated…that, for the reasons therein, a prosecution for assault was not warranted*". This letter of 13 January 1999 has not been disclosed. Ireland's Submission states that "*On 16 June 2000, the Director of Public Prosecutions issued final directions that no prosecutions were to be brought in relation to the allegations made by the Complainant*".[159] Again. these final directions from the DPP have not been disclosed. By denying Mrs Coppin information about the criminal investigation, Ireland has contravened Principle 4 of UNGA Res 55/89.

<u>*Lack of thoroughness and expeditiousness*</u>

3.19 In order for an investigation to be deemed effective, state authorities must have taken all reasonable steps available to them to secure the evidence concerning the instances of abuse.[160] The Garda file demonstrates little action by way of gathering and analysing relevant evidence. For example, both the Gardaí and the DPP appear to have simply accepted an account provided by one of the alleged perpetrators of Mrs Coppin's abuse regarding the risks associated with gathering and analysing evidence, without being provided with any medical evidence to ground her assertions. A letter from the Office of the DPP to the relevant State Solicitor dated 7 September 1999 states:

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[155] Appendices to Ireland's Submission, Tab 9g: *Letter Ms Coppin to DPP*, 5 August 1999; Tab 9a: *Gda B[redacted] Report*, 7 October 1999; Tab 10: *Report of An Garda Síochána relating to conversation with Elizabeth Coppin*, 15 August 2012.

[156] Appendices to Ireland's Submission, Tab 9d: *DPP Letter,* 7 September 1999.

[157]**[VOL G / TAB 185 / PAGES 5245-5312]**: Office of the Director of Public Prosecutions, *Guidelines for Prosecutors* 4th ed, October 2016, p 4, states, *"The Guidelines were first published in 2001 with the aim of setting out in general terms principles to guide the initiation and conduct of prosecutions in Ireland."*

[158] Ireland's Submission, para 53.

[159] Ireland's Submission, para 55.

[160] **[VOL E / TAB 127 / PAGES 3470-3471]:** Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Recommended by General Assembly resolution 55/89 of 4 December 2000, Principle 3.

"The question of delay, adverted to by the Gardaí, is of course a considerable factor in this case, particularly as the main suspect, Sr. Enda, says that she has had medical difficulties in the last few years which would influence her ability to remember events."[161]

3.20 Alarmingly, this resulted in the alleged perpetrator not being questioned as part of the investigation carried out by An Garda Síochána, let alone prosecuted. The Garda file generally suggests that disproportionate reliance was placed upon evidence and/or information from the individuals who were to be the subjects of their investigation and/or the institutions where the abuse was alleged to have occurred. Multiple other specific deficiencies in the investigation carried out by An Garda Síochána are pointed out below. It is clear from the records furnished by Ireland that An Garda Síochána did not mobilise sufficient resources to ensure that investigations were carried out in a thorough manner as required by Article 12 of the Convention:

"The investigative authority shall have the power and obligation to obtain all the information necessary to the inquiry. The persons conducting the investigation shall have at their disposal all the necessary budgetary and technical resources for effective investigation…"

3.21 The lack of thoroughness is especially egregious in light of the acknowledgement by Gardaí of the merit of Mrs Coppin's complaints and her credibility as a complainant:

a. "*Mrs Coppin appears to be an honest person overall, but does express anger, discussing her period of time spent in custody of the nuns*".[162]

b. *Elizabeth Coppin is adamant that she was held against her will… and this would appear to be corroborated by the fact that she was taken to the Good Shepherd Sisters, Baile An Aoire Montenotte, Cork, from St Finbarrs hospital where she was employed, around 4.11.66 and further sent to Waterford on 8.3.67 util Easter 1968.*[163]

c. "*As set out in Garda B[redacted] report Mrs Coppin's version of events of her early life regarding placement appears to be correct. It certainly seems that she was detained beyond the time specified by the court order. However Garda B[redacted] has been unable to retrieve any record explaining the reasons why she was kept beyond her time. There does not appear to have been any variation of the original court order.*"[164]

3.22 In addition, the Garda investigation was not prompt and expeditious, as required by Article 12 of the Convention, Principle 2 of UNGA Res 55/89 and ECtHR

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[161] Appendices to Ireland's Submission, Tab 9d: *DPP Letter,* 7 September 1999.
[162] Appendices to Ireland's Submission, Tab 9i: *Gda B[redacted] Report,* 24 September 1998.
[163] Appendices to Ireland's Submission, Tab 9i: *Gda B[redacted] Report,* 24 September 1998.
[164] Appendices to Ireland's Submission, Tab 9h: *D/Sgt B[redacted] Report,* 1 December 1998.

jurisprudence.[165] Mrs Coppin's complaints related to abuse perpetrated decades earlier, and it was therefore clearly apparent to the State Party's law enforcement agency that the investigation needed to be carried out with haste.

Alleged perpetrators

3.23 Ireland contends that the Garda investigation "*identified that all parties who were in authority for the relevant period (i.e. 1964 – 1968) were now deceased*".[166]

3.24 There is no evidence in the Garda file, however, that the Gardaí considered:

a. The State actors who approved and issued the "*Notice of Licensing to the Superiors, St Mary's Convent*" in 1964, regarding Mrs Coppin's transfer from the Industrial School to the first Magdalene Laundry.

b. Sr L█, named by Mrs Coppin in her statement to Garda N█ B█ on 16 April 1998 as a person who took her, together with Sr Enda O'Sullivan, to the first Magdalene Laundry operated by the Sisters of Charity at St Mary's Road, Cork.

c. Any nun in a position of authority over Mrs Coppin in the first Magdalene Laundry.

d. Mother M█ C█, whom Mrs Coppin named in her statement to Garda N█ B█ on 16 April 1998 as the nun who sent her from the second Magdalene Laundry to the third Magdalene Laundry on 8 March 1967. Mrs Coppin's Witness Statement to the Committee also names Mother M█ C█ as the nun in charge of the second Magdalene Laundry.

e. Mother M█ P█, or Mother M█ whom are named in Mrs Coppin's Witness Statement to the Committee as nuns in authority over her in the third Magdalene Laundry.

3.25 The Report of Garda N█ B█, dated 15 December 1999, reveals that only the following individuals were considered: (i) Sr Enda O'Sullivan, one of the nuns who transferred Mrs Coppin from the Nazareth House Industrial School to the first Magdalene Laundry; (ii) Inspector O'Callaghan, of the ISPCC, who captured Mrs Coppin from her job in St Finbarr's Hospital and placed her in the second Magdalene Laundry; (iii) Sr Agatha Flannery, the Superior in the second Magdalene Laundry at the relevant time; and (iv) Sr Ignatius Foley, the Superior in the third Magdalene Laundry at the relevant time. Garda B█'s report reads:

> *"The inspector O'Callaghan mentioned was an inspector with the NSPCC. Sr Agatha Flannery was the superior in the Good Shepherd Convent, Cork, at the*

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[165] See for example [**VOL G / TAB 186 / PAGES 5313-5345**]: *Edwards v the United Kingdom*, no. 46477/99, ECtHR, 14 March 2002, para 72;

[166] Ireland's Submission, para 54.

time and Sr Ignatius Foley was the superior at the Waterford convent at the time. Both of these are now deceased. As all parties in authority in the period 1964 to 1968, connected with this issue are now deceased, it is most unlikely that the question of false imprisonment can be attributed to any person. Please note that Sister Enda O'Sullivan already mentioned in this file has died in November, 1999."[167]

<u>*Assault*</u>

3.26 Ireland states that the DPP decided in January 1999 that there was "*insufficient evidence*" to warrant a prosecution for assault, and that Mrs Coppin's complaints of intellectual deprivation, social deprivation and verbal abuse "*did not disclose any criminal offence*".[168]

3.27 Ireland continues to withhold the DPP's records of its decision-making. Therefore, Mrs Coppin must rely on the Garda file to learn why her case was determined not to warrant a prosecution for assault.

3.28 The Garda file discloses merely a <u>summary</u> consideration, and rejection, of Mrs Coppin's complaints as a whole of "*physical, intellectual, emotional, social and verbal abuse*". Without any reference to legal criteria, nor to any possible avenues of further investigation for the purposes of gathering potentially corroborating evidence, Garda N■ B■ asserted on 24 September 1998:

> "*...it must be borne in mind that in the orphanage, there would have been the entitlement of a parent or somebody in loco parentis to administer chastisement, and likewise during school in that era corporal punishment was administered. There is no independent evidence to substantiate the allegations. Therefore I would recommend no prosecution.*" [169]

3.29 A letter from Garda N■ B■ to the DPP dated 7 October 1999,[170] and a letter from Mrs Coppin to the DPP dated 5 August 1999[171] both reveal that the Gardaí determined that her experiences of physical abuse amounted to nothing more than "*corporal punishment*" which was, according to the Gardaí, "*commonplace*".

3.30 There is no evidence that the Gardaí considered <u>each</u> of Mrs Coppin's allegations of abuse individually. Mrs Coppin wrote to the DPP in August 1999 with the express purpose of drawing attention to the detail of her complaints. There is no record of an itemised consideration of each of the complaints made by Mrs Coppin in relation to her experience in three Magdalene Laundries.

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[167] Appendices to Ireland's Submission, Tab 9f, *Gda B■ Report,* 15 December 1999.
[168] Ireland's Submission, para 51; see also Appendices to, Tab 9i: *Gda B■ Report,* 24 September 1998; Tab 9d: *DPP Letter,* 7 September 1999.
[169] Appendices to Ireland's Submission, Tab 9i: *Gda B■ Report,* 24 September 1998.
[170] Appendices to Ireland's Submission, Tab 9a: *Gda B■ Report,* 7 October 1999.
[171] See Appendices to Ireland's Submission, Tab 9g: *Letter Ms Coppin to DPP,* 5 August 1999.

3.31 Crucially, there is no evidence in the files disclosed by the State Party that the Gardaí or DPP considered a potential prosecution in relation to forced labour or servitude, nor to torture or any form of cruel, inhuman or degrading treatment other than assault.

False imprisonment

3.32 The Garda file discloses a wholly inaccurate and ineffectual consideration of the framework concerning the detention of children and young persons in church-run institutions and its relation to Mrs Coppin's complaints of false imprisonment.

3.33 The Report of Detective Sergeant J[redacted] B[redacted] dated 1 December 1998[172] displays the following egregious flaws in the Garda's consideration of the Children Act 1908:

a. The Report states: "*In relation to her transfer from Nazareth home to St. Mary's reformatory on 19.3.64, this would appear to be done in accordance with Section 71(2) of the Children's Act, 1908 as Sr. Enda had described her as becoming quiet* [sic] *troublesome, and there was nothing further they could do for her*." Section 71(2) of the Children Act 1908, however, provided for the detention in a certified Reformatory School of a child found on summary conviction by a court to be guilty of a serious and wilful breach of the rules of the Industrial School in which they were detained.[173] This section could not possibly have applied to Mrs Coppin's transfer to the first Magdalene Laundry because the Magdalene Laundry was <u>not a certified Reformatory School</u> and Mrs Coppin was <u>not convicted by a court for rule-breaking in the Industrial School</u>.

b. The Report further states: "*If Section 65(a) of the Children's Act 1908 applied it would allow for Elizabeth Coppin's removal from St. Finbarr's hospital Cork, under Section 72(1) Children's Act 1908 to the Good Shepherds Reformatory, Montenotte, Cork, and subsequent transfer to the same order in Waterford until her release in Easter 1968, before her 19th birthday. There is no record of a detention order, but over thirty years have passed since then, and I do not believe that it would be safe to consider a prosecution in any event*." Section 65(a) of the Children Act 1908 required the period of detention in a Reformatory School to be specified in the court order mandating their detention.[174] This could not possibly have applied to Elizabeth Coppin's detention in Magdalene Laundries because Magdalene Laundries <u>were not Reformatory Schools</u> under the Children Act 1908. Ireland's Submission to the Committee acknowledges this at paras 16 to 22. The State Party emphasises that "*There was no specific statutory framework under which individuals could be committed to a Magdalen laundry*" (para 16) and "*Magdalen*

[172] Appendices to Ireland's Submission, Tab 9h: *D/Sgt B[redacted] Report,* 1 December 1998.
[173] **[VOL G] / TAB 166 / PAGES 4747-4830]**: Children Act 1908, s 71(2).
[174] **[VOL G / TAB 166 / PAGES 4747-4830]:** Children Act 1908, s 65(a).

Laundries are to be contrasted with other institutional settings which operated in Ireland during the relevant time period".[175]

3.34 In the circumstances, Mrs Coppin's interment was not in accordance with the law. Any findings to the opposite effect in the Garda investigation were flawed as a matter of law.

Later investigative efforts

3.35 Ireland's Submission demonstrates that the Gardaí made no effort to reconsider the correctness or thoroughness of their previous conclusions in Mrs Coppin's case in the decades afterwards.

3.36 Ireland has provided a written report — which, again, Mrs Coppin had not seen prior to its disclosure by the State Party with its Submission— of a meeting between Mrs Coppin and two Detective Gardaí on 18 July 2012.[176] This report notes the names of nuns involved in Mrs Coppin's arbitrary detention and forced labour whom the Gardaí did not previously report to be deceased. The said report notes that in 2012 Gardaí further received complaints of abuse by Mrs Coppin including:

a. That her first transfer to a Magdalene Laundry was "*an illegal and unlawful act and that it was approved and sanctioned by the Department of Education*";

b. That in the first Magdalene Laundry, "*Every night she was locked into this cell by a nun. The nun bolted the cell door from the outside ensuring that she could not leave the room during the night or go to the bathroom.*"

c. That "*Mrs Coppin described Sister's of Charity at Peacock Lane as living hell. She detailed that she was involved in heavy washing with huge washing machines and dryers…She was dragged into the 'punishment cell' by an unidentified nun and two (2) other women…She was subjected to three (3) days and nights in this cell.*"

d. That upon being taken by Inspector O'Callaghan to the second Magdalene Laundry "*She was an innocent victim and her human rights were infringed…At this point Mrs Coppin was seventeen (17) years and seven (7) months old. The original court order stated that she was to be released from state care on her sixteenth (16th) birthday, therefore this imprisonment showed negligence and blatant disregard to the judge's ruling.*

e. That in the third Magdalene Laundry, "*She explained that she worked hard, from morning until night.*"

[175] Ireland's Submission, para 19.

[176] Appendices to Ireland's Submission, Tab 10: *Report of An Garda Síochána relating to conversation with Elizabeth Coppin*, 15 August 2012.

3.37 The Report of the 18 July 2012 meeting between Gardaí and Mrs Coppin concludes by noting that, following Mrs Coppin's complaints to Gardaí 14 years prior: "*Her file was sent to the [DPP] who directed no prosecution. This file is currently held at Tralee Garda Station.*" There is no evidence[177] that the Gardaí in 2012 retrieved and reconsidered the contents of the previous Garda file concerning Mrs Coppin's abuse. Instead, the Gardaí in 2012 appear to have treated the fact that the DPP previously directed no prosecution as conclusively demonstrating the absence of any evidence of criminal wrongdoing against Mrs Coppin. Mrs Coppin's file was not retrieved or examined, and the legality of the matters she complained of was not re-considered, <u>even</u> for the purposes of the IDC's general <u>fact-finding</u> process which Ireland now relies on to contend that criminal abuse did not happen in Magdalene Laundries.

3.38 Between 2000 and 2012, the other inquiry and 'redress' procedures with which Mrs Coppin interacted did not share their archives or offer Mrs Coppin the opportunity or assist her to share her evidence with the Gardaí. As Ireland informed the Committee in 2015, the Commission to Inquire into Child Abuse ("CICA)" did not allow the Gardaí to access its archive.[178] The legislation underpinning the Residential Institutions Redress Board ("RIRB"), meanwhile, prohibits disclosure of information received by it to Gardaí unless necessary to prevent the commission of a serious offence or to prevent child abuse.[179]

<u>Conclusion</u>

3.39 It is apparent from the above that Ireland's investigation of Mrs Coppin's <u>own</u> case has been woeful. It cannot begin to satisfy Article 12.

<u>Access to court</u>

<u>High Court proceedings between 1999 and 2001</u>

3.40 Mrs Coppin's Complaint at para 8.1.3 contends that Ireland has "*actively impeded*" her access to the civil courts. As her Complaint notes, on 23 November 2001 the High Court struck out her proceedings against a group of nuns responsible for her treatment in the Industrial School on the grounds of (1) "*inordinate and inexcusable delay*", and (2) there being a "*real and serious risk of unfair trial*" because numerous key individuals were deceased and there were "*no documents to support or to refute the false imprisonment claim made by the plaintiff*".[180] It was on the basis of this judgment that Mrs Coppin's legal team advised her to discontinue proceedings against the State

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[177] See also Appendices to Ireland's Submission, Tab 11: *Report of An Garda Síochána re: McAleese Investigations, 11 September 2012 – redacted*, 11 September 2012.
[178] **[VOL G / TAB 188 / PAGES 5420-5447]**: *Consideration of reports submitted by State parties under article 19 of the Convention pursuant to the optional reporting procedure, Second periodic reports of State parties due in 2015, Ireland*, UN Doc CAT/C/IRL/2, 20 January 2016, para 223.
[179] **[VOL B / TAB 37 / PAGES 906-932]:** Residential Institutions Redress Act 2002, s 28.
[180] Appendices to Ireland's Submission, Tab 12: *Elizabeth Coppin v Cora McCarthy, Alice Doherty, Claire O'Sullivan and Enda O'Sullivan (High Court Record Number: 1999/381P),* 23 November 2001.

as well as all religious personnel responsible for the Magdalene Laundries, as explained in Mrs Coppin's Complaint at para 5.1.2.

3.41 Ireland's Submission contends that "*It can be seen from the judgment of the High Court that it was concerned with the rights of all parties to a fair trial in relation to the issues*".[181] With respect, however, the State Party did not protect Mrs Coppin's fair hearing rights; on the contrary it hampered Mrs Coppin's ability to exercise her rights particularly as against institutional defendants as follows:

a. Ireland had not by the time of Mrs Coppin's High Court proceedings, nor has it to date, afforded access to the public or private administrative archives concerning the Magdalene Laundries. These remain in the possession of a range of religious and State actors, as Ireland acknowledges.[182] As Ireland's Submission highlights, the paucity of available documentary evidence was key to the decision of Mr Justice Kelly on 23 November 2001 to dismiss Mrs Coppin's case.[183] Kelly J found:

> "*This case will have to be decided by oral testimony. It is not a documents case. It will be based on the word of the plaintiff which has to be countered by the defendant. A fair trial requires something more than assertion and bland denial… Insofar as it is said that there is no evidence of prejudice against the defendants in dealing with this allegation [of false imprisonment], the person who could give evidence of it is dead and relevant documents simply do not exist.*"[184]

b. The IDC Report has demonstrated clearly that there is a significant evidence base available, particularly in relation to the State's knowledge and involvement in the abusive regime into which (according to clear documentary evidence) it placed Mrs Coppin directly. The English High Court decision of McCombe J in *Mutua and ors v The Foreign and Commonwealth Office* [2012] EWHC 2678 (QB) demonstrates how Mrs Coppin's situation could have been different were the administrative archives of the religious orders and the State collected and open to her.[185] In *Mutua*, McCombe J found that a fair trial (at which the court would of course still have had to conduct its own analysis of the available documents) was still possible despite the lapse of 60 years since the claimants' abuse had occurred, because "*the available documentary base is very substantial indeed and capable of giving a very full picture of what was going on in government and military circles in both London and Kenya during the emergency*".[186]

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[181] Ireland's Submission, para 64.
[182] Ireland's Submission, para 156.
[183] Ireland's Submission, para 62.
[184] Appendices to Ireland Submission, Tab 12: *Elizabeth Coppin v Cora McCarthy, Alice Doherty, Claire O'Sullivan and Enda O'Sullivan (High Court Record Number: 1999/381P),* 23 November 2001.
[185] **[VOL G / TAB 189 / PAGES 5448-5486]**: *Mutua and ors v The Foreign and Commonwealth Office* [2012] EWHC 2678 (QB).
[186] **[VOL G / TAB 189 / PAGES 5448-5486]**: *Mutua and ors v The Foreign and Commonwealth Office* [2012] EWHC 2678 (QB), para 51, see also paras 86, 91, 95, 108, 109.

c. Ireland's Statute of Limitations 1957 contains no provision similar to section 33 of the Limitation Act 1980 in England and Wales (entitled "Discretionary exclusion of time limit for actions in respect of personal injuries or death"), which allows a court to disapply the ordinary limitation period "*if it appears to the court that it would be equitable to allow an action to proceed*" — a question which the court must answer by reference to a range of considerations including the likely "*prejudice*" that such disapplication of the ordinary limitation period would cause to the plaintiff or defendant, and "*all the circumstances of the case*". This discretion provided for in section 33 was relied on by McCombe J in *Mutua* to allow the tort law-based claims by three victims of torture in Kenya during the 1950s to proceed against the British Foreign and Commonwealth Office. The Committee will recall its own recommendation in its Concluding Observations to Ireland in 2017 to "*ensure that [Magdalene Laundries-related] claims concerning historical abuses can continue to be brought 'in the interests of justice'*".

d. Religious congregations in Ireland are not required by the State Party to have, and do not have, legal personality independent of their individual members.[187] This was recognised by the Irish Supreme Court in 2017 to be a "*major trap*" for plaintiffs seeking to sue a religious congregation.[188]

<u>*General investigations into the Magdalene Laundries*</u>

3.42 Ireland contends that its investigation into the structural, institutional elements of Mrs Coppin's treatment in the Magdalene Laundries has also been sufficient. First and foremost, Ireland relies on the IDC Report (paras 125-126), which is said to be a "*comprehensive, factual account of the history of the Magdalen Laundries, the manner in which they were operated and the living and working conditions which existed in them. It placed a significant amount of information in the public domain that was not previously available*" (para 126, repeated at para 135). It also relies on the "*supplemental*" role played by CICA and the RIRB (paras 135-136).

Scope of Committee's Jurisdiction

3.43 As a preliminary point, Ireland's submissions on the relevance of these general investigations demonstrates the inherent contradiction in Ireland's Submission:

a. On the one hand, Ireland asks the Committee to take account of the <u>general</u> measures it has undertaken in respect of not only survivors of the Magdalene Laundries, but also other institutions.[189]

b. On the other hand, it complains that Mrs Coppin is acting improperly by referring to the fact that her experience is shared by many other Irish women (Ireland's

[187] **[VOL G / TAB 190 / PAGES 5487-5574]**: *Hickey v McGowan* [2017] 2 IR 196, para 236.
[188] **[VOL G / TAB 190 / PAGES 5487-5574]**: *Hickey v McGowan* [2017] 2 IR 196, para 229.
[189] Ireland's Submission, paras 119-120.

Submission, paras 7-12, 118). In particular, it contends that Mrs Coppin's complaint improperly invites the Committee to "*generally consider the manner in which the State Party has addressed issues relating to Magdalen Laundries or the women who were resident in those institutions*".[190]

This argument was raised at the stage of admissibility, when Ireland disputed the jurisdiction of the Committee.[191] Ireland's objections were dismissed by the Committee in its Admissibility Decision. No reason has been given by Ireland for the issue being raised again.

3.44 Mrs Coppin claims to be a victim of a violation by Ireland of the provisions of Articles 12, 13, 14 and 16 of the Convention. She is submitting her Communication herself (with legal representation). As such, her claim plainly satisfies Rule 113(a).

3.45 Ireland's complaint is only in respect of the fact that Mrs Coppin also notes the position of other women who were interned in the Magdalene Laundries. But there is no basis for dismissing Mrs Coppin's complaint simply because she has noted the objective fact that her situation is shared by many other Irish women. This is demonstrated by Ireland's own response on this point (and the fact that it directly prays in aid the matters taken at a general level): the Committee will inevitably have to consider the response by Ireland to the position of the Magdalene Laundries generally to determine whether or not there has been a breach in Mrs Coppin's case. Doing otherwise would be to shut out the consideration of relevant matters.

Insufficiency of State's investigations

3.46 Ireland in its Submission attaches very significant weight to the IDC Report. The IDC is said to have been granted a "*fact finding mandate*", and to have published a "*comprehensive description of the operation of the Magdalen Laundries and the manner in which women were treated while resident in those institutions*".[192]

3.47 Regrettably, that is a wholly inaccurate description of the IDC Report. The IDC had a circumscribed role. It was to establish the facts of State involvement in the Magdalene Laundries:[193]nothing more. "*In the course of the Committee's work, material was also uncovered*" on other issues.[194] Some of that material was published in the IDC's Report.[195] However, that material was not gathered nor evaluated for the purposes of

[190] Ireland's Submission, para 12.
[191] Rule 113(a) provides, "*With a view to reaching a decision on the admissibility of a complaint, the Committee… shall ascertain: (a) That the individual claims to be a victim of a violation by the State party concerned of the provisions of the Convention. The complaint should be submitted by the individual himself/herself or by his/her relatives or designated representatives, or by others on behalf of an alleged victim when it appears that the victim is unable personally to submit the complaint, and, when appropriate authorisation is submitted to the Committee*".
[192] Ireland's Submission, para 135.
[193] **[VOL C / TAB 77 / 1407-1414]:** IDC Report, Executive Summary, p 1407.
[194] **VOL C / TAB 77 / 1401-1407]:** IDC Report, Introduction, para. 17.
[195] See Complaint, para 8.1.17.

determining whether the treatment of the women interned in the Magdalene Laundries amounted to torture or ill-treatment. As the IDC stated in relation to its recording of "*the stories shared with the Committee by these women*", it "*does not make findings on this issue*", which it described as "*particularly sensitive and difficult*".[196]

3.48 Indeed, despite the fact that the evidence gathered by the IDC could have been grounds for considering whether there was torture or ill-treatment in the Laundries, as clearly set out above - there was, in fact, very significant evidence of such disclosed in the IDC Report - [197] Ireland has continued to rely on the limited mandate of the Report to seek to avoid criticism internationally. In its most recent periodic review Follow-Up Report to the Committee, annexed to Mrs Coppin's Reply on Admissibility, Ireland stated that the Inter-Departmental Committee "*had no remit to investigate or make determinations about allegations of torture or any other criminal offence*".[198] But that statement notwithstanding, Ireland thereafter argued that "*[n]o factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions was found*".[199] Ireland has made this same argument in its most recent periodic report to the Human Rights Committee.

3.49 Ireland cannot, in those circumstances, now maintain to this Committee that the IDC was a fact-finding operation which analysed the operation and treatment of girls and women in the Magdalene Laundries.

3.50 Mrs Coppin respectfully requests that the Committee revisit her Complaint at paras 8.1.13 to 8.1.22 for a full account of the deficiencies in the IDC process. In summary, the IDC was neither impartial nor transparent. The chairperson, Dr McAleese was a dentist and Government-nominated Senator who was the husband of the then-President of Ireland, Mary McAleese. The other IDC members were senior civil servants from Government Departments which had dealings with the Laundries. The IDC had no independent members, and no victim representation. It held no public hearings, no public invitation to submit evidence was made, and no public access to the evidence on which the IDC Report is based has ever been permitted.

3.51 Ireland's reliance on the role of CICA and the RIRB is also inaccurate.[200] Quite simply, as explained above, neither CICA nor the RIRB had a mandate to consider the treatment of Mrs Coppin in the Laundries (as indeed, the State party does not dispute). While the RIRB was able to award a payment regarding some of her time in the Laundries, it was not able to investigate any allegations of ill-treatment or torture. Section 13(11) of the

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[196] **[VOL C / TAB 77 / 1407-1414]:** IDC Report, Executive Summary, para 18.

[197] See **[VOL D / TAB 99 / PAGES 2623-2758]:** Irish Human Rights Commission, *IHRC Follow-Up Report on State Involvement with Magdalen Laundries*, June 2013; Complaint, para 8.1.23.

[198] Reply to Ireland's Objection on Admissibility, Appendices, Tab 1: *Concluding observations on the second periodic report of Ireland Addendum, Information received from Ireland on follow-up to the concluding observations,* UN Doc CAT/C/IRL/CO/2.Add.1, 28 August 2018, para 14.

[199] Reply to Ireland's Objection on Admissibility, Appendices, Tab 1: *Concluding observations on the second periodic report of Ireland Addendum, Information received from Ireland on follow-up to the concluding observations,* UN Doc CAT/C/IRL/CO/2.Add.1, 28 August 2018, para 15; see also Complaint, para 8.1.30.

[200] Ireland's Submission, paras 135-136.

Residential Institutions Redress Act 2002 provides that "*An award made under this Act shall not be construed as a finding of fact that a person who is referred to in an application carried out the acts complained of in the application*".[201]

Overall position

3.52 For all of the reasons above, Ireland's submission that "*the Complaints of torture or ill treatment made by the Complainant were investigated by an impartial and independent body*", and that "*the State Party has undertaken appropriate fact finding investigations into the broader issues relating to Magdalen Laundries*",[202] cannot be accepted.

3.53 Neither the individual investigation into Mrs Coppin's complaint, nor the investigations relied upon by the State party, are sufficient to satisfy the State party's obligations under Article 12. Mrs Coppin reiterates the detailed explanation set out at paras 8.1.1- 8.1.35 of her Complaint as to why this contention is unsubstantiated. Moreover, Mrs Coppin refers again to the observations of this Committee, in its Concluding Observations of 2017, where it stated that "*the Committee deeply regrets that the State party has not undertaken an independent, thorough and effective investigation into allegations of ill-treatment of women and children in the Magdalen laundries or prosecuted and punished the perpetrators, as recommended in its previous concluding observations*",[203] and to the Committee's most recent Follow-up Correspondence to the State Party, in May 2019, which states:

> *While taking note of the repeated arguments put forward by the State party, the Committee regrets the decision not to set up a thorough, independent and impartial investigation regarding the Magdalen Laundries in spite of the alleged incidents of physical punishment and ill-treatment both in light of facts covered by the McAleese Report, and particularly in view of the non-judicial nature of the Inter-Departmental Committee. In this regard, the Committee reiterates the importance of investigating in a thorough and impartial manner all allegations of ill-treatment in these institutions and conducting criminal proceedings when necessary. The Committee also regrets that even the right of the victims to bring civil actions appears to be limited by the requirement to sign an undertaking not to take an action against the State and its agencies, as indicated in the follow-up replies.*[204]

4. BREACH OF ARTICLE 14

4.1 As a preliminary matter Ireland contends "*that the obligations contained in Article 14 only apply to a 'victim of an act of torture'*" and therefore that "*the obligations*

[201] **[VOL B / TAB 37 / PAGES 906-932]:** Residential Institutions Redress Act 2002, s 13(11).
[202] Ireland's Submission, para 140.
[203] **[VOL A / TAB 7 / PAGES 73-84]:** *Concluding observations on the second periodic report of Ireland,* UN Doc CAT/C/IRL/CO/2, 31 August 2017, para 25.
[204] **[VOL G / TAB 167 / PAGES 4831-4833]:** Letter from Abdelwahab Hanni, Rapporteur for Follow-up to the Concluding Observations of the Committee against Torture, to H.E. Mr Michael Gaffney, 21 May 2019.

contained in Article 14 do not arise" in Mrs Coppin's case.[205] Ireland has no basis for this argument. Both of the judgments upon which Ireland relies expressly confirm that States Parties to the Convention are obliged to "*grant redress and fair and adequate compensation*" to victims of ill-treatment as well as to victims of torture.[206] Mrs Coppin further relies on the Committee's General Comment No 2 which states that "*articles 3 to 15 are likewise obligatory as applied to both torture and ill-treatment*"[207] and the Committee's General Comment No 3 which further clarifies that "*article 14 is applicable to all victims of torture and acts of cruel, inhuman or degrading treatment or punishment (hereafter 'ill-treatment') without discrimination of any kind, in line with the Committee's General Comment No. 2*"[208]

4.2 Mrs Coppin set out at paras 8.2.1-8.4 of her Complaint the failures of the State party in terms of redress for her incarceration and treatment in the Magdalene Laundries. In so doing, she made clear that the State had issued apologies to women detained in the Magdalene Laundries (as Ireland relies on in its Submission at paras 71-72), and that she has received limited financial payments, from the RIRB in respect of some of her time in the Magdalene Laundries (as Ireland relies on in its Submission at paras 66-70, 74-75, 89 and 144), and from the Magdalene Laundries Restorative Justice Scheme (as Ireland relies on in its Submission at paras 144-145).

4.3 Although Ireland's Submission places significant weight on these mechanisms for redress, it does not answer the question at the heart of Mrs Coppin's Complaint: whether financial payments, coupled with the forms of apology made by the State, are sufficient. In Mrs Coppin's submission, these are plainly insufficient to satisfy the requirements of Article 14, particularly in light of the following points:

a. The investigations in question, on which Ireland relies at para 153, have not led to "*verification of the facts and full and public disclosure of the truth*" as required by General Comment No 3, para 16. No investigations have been conducted into the truth or otherwise of Mrs Coppin's allegations of ill-treatment and torture. The State's denial that human rights abuses took place in the Laundries exposes its apologies as hollow and self-serving.

b. The apologies in question, on which Ireland relies at para 152 of its Submission, do not demonstrate the "*crucial component*" of "*acceptance of responsibility*" by the State, as required by General Comment No 3, paras 16 and 39. If the State's apologies were genuine, it would not persist in maintaining, contrary to the findings of its own IDC, that "*Magdalen Laundries were not institutions either in the ownership or control of the State party*". Without acceptance of

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[205] Ireland's Submission, para 142.

[206] **[VOL G / TAB 192 / PAGES 5731-5741]:** *Dzemajl and Ors v Yugoslavia,* UN Doc CAT/C/29/D/161/2000, 2 December 2002, para 9.6; **[VOL G / TAB 193 / PAGES 5751-575759]:** *Kirsanov v Russian Federation,* UN Doc CAT/C/52/D478/2011, para 11.4

[207] **[VOL A / TAB 96 / PAGES 2439-2513]:** General Comment no 2, *Implementation of Article 2 by State Parties,* UN Doc CAT/C/GC/2, 24 January 2008, para 6.

[208] [**VOL B / TAB 51 / PAGE 1070-1080]:** General Comment no 3, *Implementation of article 14 by State parties,* UN Doc CAT/C/GC/3, 13 December 2012, para 1.

responsibility, the State's assertions that there will be no repetition are meaningless.

c. The State's payments to Mrs Coppin were "*ex gratia*" in nature and particularly under the Magdalene Scheme not calculated to reflect the seriousness of the abuse suffered or the injuries suffered. Judge Quirke explained in the Magdalen Commission Report that payments under the *ex gratia* Scheme would be significantly reduced by comparison to court-ordered damages and would not "*reflect or include a calculation of loss of earnings sustained by the women*".[209]

d. The payments also resulted in a waiver of Mrs Coppin's rights to bring any actions in the Courts, in direct contravention of the Committee's comments that collective reparation and administrative reparation programmes "*may not render ineffective the right to a remedy and to obtain redress*".[210] This is not, as claimed by Ireland, merely a "*theoretical*" issue:[211] no proceedings can be brought domestically (of the nature originally brought by Mrs Coppin, <u>or any other proceedings</u>) while the waiver is in force.

e. The situation of secrecy of records and censorship of survivors, discussed at paras 8.1.16 and 8.2.11 of Mrs Coppin's Complaint, persists to this day:

   i. Ireland has not granted any access (even to the Finding Aids or Index) to the archive of State records gathered by the IDC, which is currently held by the Department of An Taoiseach. Ireland's Submission acknowledges this but argues that Mrs Coppin could use the Freedom of Information Act 2014 ("FOIA") to try to piece together the IDC's archive herself by making individual information access requests to all of the original holders of state records.[212] This suggestion is remarkable in circumstances where the IDC already conducted this evidence-gathering task with extensive resources over almost two years, and also misinterprets the statutory provisions of FOIA. That provides a right of access only to state-held information created <u>after</u> October 1998 (or 2008 for some public bodies), with very limited exceptions.[213]

   ii. Ireland's Submission acknowledges that the IDC returned all records received from the religious congregations to them at the end of the IDC's work.[214] It is inaccurate for Ireland to suggest (as it does in its

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[209] **[VOL D / TAB 80 / PAGE 2066-2155]:** Mr Justice John Quirke, *The Magdalen Commission Report,* May 2013, para 5.15.
[210] **[VOL B / TAB 51 / PAGE 1070-1080]:** General Comment no 3, *Implementation of article 14 by State parties,* UN Doc CAT/C/GC/3, 13 December 2012, para 20.
[211] Ireland's Submission, para 146.
[212] Ireland's Submission, para 156.
[213] Appendices to Ireland's Submission, Tab 30: Freedom of Information Act 2014, ss 2, 11. The exceptions concern disclosures of older records where it is necessary or expedient in order to understand more recent records or where the older records, *"...relate to personal information about the person seeking access to them."*
[214] Ireland's Submission, para 156.

Submission at para 156) that all of the religious-held records concerning the Magdalene Laundries contain "*sensitive personal data*" (i.e., that there are no general administrative files in the nuns' archives) or that it would be impossible for the State to anonymise various records containing "*sensitive personal data*" appropriately prior to granting access.

f. Mrs Coppin has not been granted access to the health and social care services recommended by Mr Justice Quirke in his May 2013 *Magdalen Commission Report* and agreed to by the Irish Government "*in principle…in full*" on 26 June 2013.[215] Judge Quirke characterised his recommendation on health and social care as a "*fundamental element of the Scheme*" and a response to survivors' "*principal*" concerns as expressed during the consultation in early 2013.[216] Judge Quirke recommended that "*Magdalen women should have access to the full range of services currently enjoyed by holders of the Health (Amendment) Act 1996 Card ("the HAA card")*".[217] The State Party's failure to provide the promised services is evidenced by the following:

    i. The many differences between the services listed in the 5-page Guide to Health Services under the Redress for Women Resident in Certain Institutions Act 2015,[218] and those listed in the 48-page Guide to Services Provided with the HAA Card[219] are set out in a public statement by Justice for Magdalenes Research dated 14 July 2015.[220] In summary, by comparison with HAA cardholders Magdalene Laundries survivors' entitlements are limited as follows: (1) drugs, medicines and appliances are limited to the Medical Card Reimbursement List; (2) Dental, ophthalmic and aural services are limited to Medical Card standard; (3) Complementary therapies are not available; and (4) Counselling services require a GP's referral and are not available to family members. HAA cardholders' access to a large array of private healthcare services was an important reason for Judge Quirke's recommendation for Magdalene survivors; Judge Quirke noted that 91 per cent of 231 women who provided relevant information to his consultation process already had a public medical card or GP visit card, yet they still experienced

[215] Appendices to Ireland's Submission, Tab 26: *Address by Alan Shatter TD, Minister for Justice, Equality and Defence on the publication of the Report of Mr Justice Quirke,* 26 March 2013.
[216] **[VOL D / TAB 80 / PAGE 2066-2155]:** Mr Justice John Quirke, *The Magdalen Commission Report,* May 2013, paras 5.01-5.05.
[217] **[VOL D / TAB 80 / PAGE 2066-2155]:** Mr Justice John Quirke, *The Magdalen Commission Report,* May 2013, p 36.
[218] **[VOL G / TAB 195 / PAGES 5760-5763]:** Health Service Executive, *Guide to Health Services under the Redress for Women Resident in Certain Institutions Act 2015*.
[219] **[VOL G / TAB 196 / PAGES 5764-5811]:** Health Service Executive, *Information Guide to Primary Care and Hospital Services for persons who contracted Hepatitis C through administration within the State of contaminated blood and blood products (under the terms of the Health (Amendment) Act 1996) (updated 2013)*.
[220] **[VOL G / TAB 197 / PAGE 5812-5813]:** Justice for Magdalenes Research, *JFM Research says Magdalene healthcare decisions are a betrayal of survivors' trust,* 14 July 2015.

"*complaints and worries*" regarding their ability to access health and social care services.[221]

ii. In October 2020 Deputy Flanagan (a former Minister for Justice and elected member of a governing party) asked the current Minister for Health on the parliamentary record "*the reason the health card, as recommended in the Magdalen commission report and agreed to in full by the then Government, has not been fulfilled or honoured; if matters can be expedited for the introduction of a HAA card along the lines of the health card given to those in the 1990s who contracted hepatitis C from contaminated blood products*". The Minister gave no reason, but it is clear from his answer that the Government does not intend to honour its commitment to implement Judge Quirke's recommendation.[222]

iii. In Autumn 2015, several dentists published a letter to the editor of the Journal of the Irish Dental Association noting that the Redress for Women Resident in Certain Institutions ('RWRCI') Act 2015 card entitles Magdalene survivors "*to the limited and incomplete treatment that the DTSS [Dental Treatment Services Scheme] provides for most medical card holders*". The dentists "*urge[d] the Council of the Irish Dental Association to publicly disassociate itself from this act by the Government and to speak out publicly on behalf of its members who do not accept the injustice we are expected to support.*"[223]

iv. Ireland's Submission suggests that the only differences between Magdalene survivors' and HAA cardholders' entitlements are services that are specific to Hepatitis C and are therefore inappropriate for Magdalene survivors.[224] This is not accurate. Ireland has not explained why each of the excluded services noted at para f(i) above are not appropriate for Magdalene survivors. During parliamentary hearings in 2014 on the Redress for Women Resident in Certain Institutions Bill, when several parliamentarians argued that complementary therapies assist in relieving stress, then-Minister for Justice, Frances Fitzgerald, agreed to "*come up with proposals for a separate, carefully laid out scheme – an administrative rather than a statutory scheme*" to provide complementary therapies.[225] This never happened. In a letter to Mrs Coppin dated 9 May 2018, the Department of Health stated:

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[221] **[VOL D / TAB 80 / PAGE 2066-2155]:** Mr Justice John Quirke, *The Magdalen Commission Report,* May 2013, para 5.03.

[222] **[VOL G / TAB 198 / PAGES 5831-5834]:** Houses of the Oireachtas, *Magdalen Laundries Debate Questions 608,* 20 October 2020.

[223] **[VOL G / TAB 199 / PAGES 5834-5889]:** P O'Reachtagain et al, Letter to the Editor, *Journal of the Irish Dental Association* 61(4), August/September 2015, p 164.

[224] Ireland's Submission, para 150.

[225] **[VOL G / TAB 200 / PAGES 5890-5894]:** Houses of the Oireachtas Select Committee on Justice, Defence and Equality, *Redress for Women Resident in Certain Institutions Bill 2014: Committee Stage,* 4 February 2015.

The RWRCI Act 2015 does not include complementary therapies, such as reflexology, aromatherapy, massage, hydrotherapy and acupuncture, or other alternative therapies such as health services meeting the medical needs of the Magdalen Women. It should be noted that Judge Quirke's Report did not identify these services for Magdalen Women. Should you wish to raise the issue of complementary therapies you should contact the Department of Justice & Equality, who have responsibility for the RWRCI Act 2015, in the first instance.[226]

v. Furthermore, Ireland has refused to pay up-front for Mrs Coppin to access health and social care services in England, where she lives. In January 2019 Mrs Coppin's General Practitioner wrote to the Minister for Justice to request payment for private physiotherapy to assist with Mrs Coppin's condition of cervical spondylosis, on account of the long delays in accessing free physiotherapy through the National Health Service in England.[227] Mrs Coppin's General Practitioner did not receive a response, but the Minister replied to Mrs Coppin on 8 April 2019 to state that if she were "*charged for one of the health services specified in the RWRCI Act the Scheme will arrange to reimburse the amount of the charge. Cardholders are asked to keep all receipts and Invoices for relevant health services in order to make a claim*".[228] The Department of Health also wrote to Mrs Coppin's solicitors on 14 June 2019 to state that "*The scheme does not provide advance funding for services and operates on a reimbursement basis only.*"[229]

vi. For these reasons, Ireland cannot legitimately claim that "*in so far as the Complainant has any medical needs arising from her time in a Magdalen Laundry they are met under the Redress Reimbursement Scheme*".[230] Mrs Coppin is not in a financial position to pay out of pocket for any health or social care service that she needs to access on a private basis because it is not already available to her through the National Health Service in England. Indeed, Appendix G to Judge Quirke's Report demonstrates that holders of the full HAA card are entitled to the assistance of a Liaison Officer who arranges and pays for all private

[226] **VOL G / TAB 201 / PAGE 5895]:** Letter from Tom Monks, Department of Health to Elizabeth Coppin, 9 May 2018.
[227] **VOL G / TAB 202 / PAGE 5896]:** Letter from Dr P[redacted] to Minister for Justice and Equality, Charlie Flanagan TD, 11 January 2019.
[228] **VOL G / TAB 162 / PAGES 4677-4679]:** Email from Conor Cleary, Department of Justice and Equality to Elizabeth Coppin, 8 April 2019.
[229] **VOL G / TAB 203 / PAGES 5897-5898]:** Letter from Deirdre McCaughey, Department of Health to KOD Lyons, 14 June 2019.
[230] Ireland's Submission, para 148.

services necessary, either <u>in advance</u> or upon the production of receipts.[231]

g. Ireland never established the "*Dedicated Unit*", as *per* Mr Justice Quirke's 6th Recommendation.[232] Mr Justice Quirke envisaged that this would provide a helpline accesible daily which would provide investigatory services and other help and assistance in obtaining sheltered housing and educational assistance; practical assistance for the women to meet each other, and for those who may wish to do so to meet with the nuns; and a process of consultation, acquisition and administration of a garden, museum or other form of memorial. In September 2013, an Inter Departmental Group ("IDG") of civil servants delivered a report ("IDG Report") to Government on how the Magdalene Scheme should operate in light of Judge Quirke's recommendations. The IDG Report rejected out of hand the need for a Dedicated Unit, asserting: "*Such a unit would require staff and premises. There is a doubt as to whether there would be sufficient demand to justify establishing a new unit of this type even without taking into account the costs involved*."[233] Thus, it was never established. Ireland's Submission acknowledges that voluntary organisers brought over 200 survivors together in June 2018, an initiative which the Department of Justice agreed to fund.[234] The *Dublin Honours Magdalenes* gathering, while a hugely important occasion, is not a substitute for the ongoing assistance which Judge Quirke envisaged the Dedicated Unit providing.

h. Guarantees of non-repetition "*include establishing effective clear instructions to public officials on the provisions of the Convention…establishing systems for regular and independent monitoring of all places of detention; providing, on a priority and continued basis, training for law enforcement officials…that includes the specific needs of marginalized and vulnerable populations*".[235] Yet, Ireland is informing law enforcement personnel that what happened in Magdalene Laundries was not criminal.[236] Ireland still has not ratified the Optional Protocol to the Convention Against Torture and has not enacted

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[231] **[VOL D / TAB 80 / PAGES 2145-2155]:** Mr Justice John Quirke, *The Magdalen Commission Report,* May 2013, Appendix G.

[232] **[VOL D / TAB 80 / 2080-2081]:** Mr Justice John Quirke, *The Magdalen Commission Report,* May 2013, 6th Recommendation,

[233] **[VOL G / TAB 204 / PAGES 5900-5940]:** Report of the Inter Departmental Group, September 2013, pp 17-18.

[234] Ireland's Submission, para 151. Responsibility for such events should not fall on voluntary organisers.

[235] **[VOL B / TAB 51 / PAGE 1070-1080]:** General Comment no 3, *Implementation of article 14 by State parties,* UN Doc CAT/C/GC/3, 13 December 2012, para 18.

[236] See **[VOL G / TAB 205 / PAGES 5941-5963]:** Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, *The gender perspective in transitional justice processes,* UN Doc A/75/174, 17 July 2020, paras 52-53, states *"Training for investigation teams, prosecutors, judges and administrative, medical and social workers is essential in order to overcome the naturalization of sexual violence and crimes based on sexual orientation, gender identity or expression and the reproduction of sexist and discriminatory stereotypes… It is necessary to provide justice officials with sufficient tools to be able to identify prejudices and carry out comprehensive gender analysis of the cases they are addressing through the implementation of special protocols for the investigation and prosecution of sexual and gender-based crimes, which can draw on the best practice manuals of the special international tribunals."*

legislative safeguards to regulate deprivations of liberty in social care settings. These failures were noted in the most recent Report on Ireland of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment published on 24 November 2020.[237]

4.4 If the 'comprehensive reparative concept' in Article 14 is to mean anything, it is that States cannot '*buy off*' victims and thus avoid their responsibilities as specifically articulated in the Committee's General Comments. Ireland's actions, while they represent a step in the right direction, are far from sufficient to meet its requirements.

4.5 Moreover, the 'comprehensive reparative concept' must entitle Mrs Coppin to measures of satisfaction and guarantees of non-recurrence that recognise and respond to the structural causes and systemic nature of her abuse. Ireland claims that Mrs Coppin's reference to the secrecy of the administrative archives is "*misconceived*" on the basis that Mrs Coppin should have access only to her own personal records.[238] In response, Mrs Coppin highlights the Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on truth commissions and archives, which notes, "*Archives containing records of mass violations can contribute to prevention. Access to well-preserved and protected archives is an educational tool against denial and revisionism, ensuring that future generations have access to primary sources, which is of direct relevance to history teaching*".[239]

5. BREACH OF ARTICLE 16

5.1 Mrs Coppin complains of a continuing violation of Article 16 on the basis that Ireland, by its failures as set out in the Communication as well as by the impunity enjoyed by all individuals and institutions involved in her suffering, has affirmed and continues to affirm her mistreatment, and thus continues to debase and humiliate her in a manner sufficient to amount to ill-treatment. Essentially, Ireland has continued the dignity violations suffered by Ms Coppin in the Magdalene Laundries into the present day. The basis of this complaint is elaborated at paras 9.1-9.6 of the Communication.

5.2 The State Party's response is short, at paras 164-170 of its Submission. It makes the following points, to which Mrs Coppin responds:

a. First, and foremost, the State Party contends that there has been sufficient investigation of the matters in question.[240] This point has been addressed above.

[237] **[VOL G / TAB 206 / PAGES 5964-6403]:** Council of Europe, *Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,* 24 November 2020, paras 6, 122.
[238] Ireland's Submission, para 156.
[239] **VOL G / TAB 207 / PAGES 6044-6073]:** HRC, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence,* UN Doc A/HRC/30/42, 7 September 2015, para 96.
[240] Ireland's Submission, paras 165-168.

b. Second, the State Party refers to the apologies addressed to the women interned in the Magdalene Laundries. Again, as Mrs Coppin explained in the Communication, and as addressed above, apologies which are not accompanied by acceptance of wrongdoing are insufficient.

c. Third, the State Party contends that Mrs Coppin could have sought redress and reimbursement from the Redress Reimbursement Scheme since 2017. That Ireland refuses to pay up-front for services that Mrs Coppin needs but cannot afford has been explained above.

d. Finally, the State Party contends that the Statute of Limitations does not affect Mrs Coppin, such that paragraph 40 of General Comment 3 does not apply. This submission misses the point that whether or not the Statute of Limitations itself has barred Mrs Coppin, it is plain from the State Party's own description of the investigation that has been conducted that the State Party has not ensured that – as stated in General Comment 3, "*all victims of torture or ill-treatment, regardless of when the violation occurred or whether it was carried out by or with the acquiescence of a former regime, are able to access their rights to remedy and to obtain redress*".[241] Ireland has conducted no general investigation into torture or ill-treatment in the Laundries. Claiming that it is prevented due to the passage of time, Ireland has conducted no investigation into the specific circumstances of Mrs Coppin's case. As the Committee has noted, in such circumstances the passage of time may not attenuate the harm but rather the harm "*may increase as a result of post-traumatic stress that requires medical, psychological and social support*".[242]

6. SUGGESTED REMEDIES

6.1 **Investigation:** An investigation that complies not only with the *Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,*[243] but also the *Set of General Recommendations for Truth Commissions and Archives* elaborated by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on truth commissions and archives.[244]

[241] **[VOL B / TAB 51 / PAGE 1070-1080]:** General Comment no 3, *Implementation of article 14 by State parties,* UN Doc CAT/C/GC/3, 13 December 2012, para 40.
[242] **[VOL B / TAB 51 / PAGE 1070-1080]:** General Comment no 3, *Implementation of article 14 by State parties,* UN Doc CAT/C/GC/3, 13 December 2012, para 40.
[243] **[VOL E / TAB 127 / PAGES 3470-3471]:** Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Recommended by General Assembly resolution 55/89 of 4 December 2000.
[244] **[VOL G / TAB 207 / PAGES 6044-6073]:** HRC, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence,* UN Doc A/HRC/30/42, 7 September 2015, Annex, pp. 27-30.

6.2 **Healthcare:** Provision of a full equivalent of the HAA card to Mrs Coppin, as recommended by Judge Quirke, and up-front payment in future of all health and social care expenses in England.

6.3 **Compensation** for the ongoing harm to Mrs Coppin arising from Ireland's failure to meet all of its redress promises and the State Party's continuing denial of responsibility for and the gravity of Mrs Coppin's experiences. Mrs Coppin's Complaint contends that, while she has received some compensation, 'she cannot be said to have achieved full redress' (Complaint, para 8.2.10; also paras 5.4.2 and 8.2.5-6). This should include an immediate payment to enable Mrs Coppin to seek the clinical psychology support recommended by Dr Nimisha Patel and the physiotherapy prescribed by Mrs Coppin's General Practitioner.

6.4 **Access to archives:**

a. The State should requisition copies of all archives concerning the Magdalene Laundries from any place in which they are held.

b. FOIA should be bolstered to ensure access to all state-held records regardless of when they were created, in a manner that protects the confidentiality of individuals who are victims or survivors of abuse.

c. Ireland should implement the Government's promise, made on 28 October 2020, to establish a national archive of records relating to the Magdalene Laundries and other institutions and systems of abuse in the 20th century, with adherence to the highest standards of international human rights law and principles.[245]

6.5 **Repeal of the 'gagging order' mandated by section 28(6) Residential Institutions Redress Act 2002**: This legislative provision should be amended so that it is clear that it does not prevent Mrs Coppin from speaking about what she told the RIRB.

6.6 **Memorialisation.** While the commitment to establishing a memorial stated in Ireland's Submission is welcome,[246] the State Party must ensure that its memorialisation efforts provide satisfaction to Mrs Coppin in the sense of disclosing the truth of the Magdalene Laundries abuse and that those efforts also contribute to guaranteeing non-repetition through national education. The Committee's attention is drawn to the following:

a. Over 100 Magdalene Laundries survivors, including Mrs Coppin, who participated in the voluntarily organised *Dublin Honours Magdalenes Listening Exercise* in June 2018 (which was carried out by expert academic facilitators and recorded in more than 1,000 pages of anonymised transcripts and a summary report published by the Department of Justice in 2020)

[245] **[VOL G / TAB 207 / PAGES 6044-6073]:** Irish Government News Service, *Government Statement on Mother and Baby Homes,* 28 October 2020.

[246] Ireland's Submission, para 51.

emphasised that younger people need to be educated about the Magdalene Laundries. In the words of one woman: "*I'd like to say that as we're older women, that the younger people that will be studying this and looking at this, that we could be a light or a torch down that path to let them see what's down there…so that if they see, when they're old enough and mature enough, if they see an injustice starting to happen, before it gets out of control, they can look at that light and say, 'hold on, hey, stop, this happened before'*."[247]

b. The Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, highlights that *"Memorialization is linked to the ability to obtain access to archives."*[248] It notes that, *"It is not enough to protect archives"*, and that archives must actually be made available.[249] The Special Rapporteur further discusses the need for education as a form of memorialisation: *"At the educational level, a process of reviewing school textbooks and curricula must be undertaken in order to have a common memory and rebuild healthy and equitable relations between individuals and groups as well as trust in the State. Such reviews, which include new ways of dealing with the violent past in national educational materials based on the results of the truth-seeking process, help to incorporate recognition of the victims as a whole and their stories, which are often distorted by intersectional prejudices and stereotypes. They also promote critical thinking and encourage young people to discuss the emergence of certain practices and devise the changes needed to prevent violence from recurring.*"[250]

6.7 **Establishment of a Dedicated Unit to Investigate Specific Criminal Allegations:** A standalone unit within An Garda Síochána, made up of specially trained officers, should be established and tasked with investigations of criminal allegations in respect of the Magdalene Laundries and other institutions where abuse was perpetrated in the Irish State during the course of the 20th century. Section 42 of the Garda Síochána Act 2005[251] should be amended to provide special inquiries established under the said statutory provision to draw conclusions in respect of criminal conduct allegedly perpetrated by members of An Garda Síochána, including former members, in the course of their duties and/or in respect of the Magdalene Laundries and other

[247] K O'Donnell and C McGettrick, *Dublin Honours Magdalenes Listening Exercise Vol 1: Report on Key Findings*, p 30.

[248] **[VOL G / TAB 209 / PAGES 6077-6106]:** HRC, *Memorialization processes in the context of serious violations of human rights and international humanitarian law: the fifth pillar of transitional justice: Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence,* UN Doc A/HRC/45/45, 9 July 2020, para 70.

[249] [**VOL G / TAB 209 / PAGES 6077-6106]:** HRC, *Memorialization processes in the context of serious violations of human rights and international humanitarian law: the fifth pillar of transitional justice: Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence,* UN Doc A/HRC/45/45, 9 July 2020, para 71.

[250] [**VOL G / TAB 209 / PAGES 6077-6106]:** HRC, *Memorialization processes in the context of serious violations of human rights and international humanitarian law: the fifth pillar of transitional justice: Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence,* UN Doc A/HRC/45/45, 9 July 2020, para 72.

[251] [**VOL G / TAB 210 / PAGES 6107-6204]: Garda** Síochána Act 2005, s 42.

institutions. In particular, individuals tasked with chairing such inquiries should be provided with the power to furnish investigative files to the DPP and/or to make recommendations regarding prosecutions of members for alleged criminal behaviour associated with the Magdalene Laundries and other institutions.

6.8 **Access to the Courts:** The State should amend the Statute of Limitations 1957 to explicitly grant discretion to the courts to disapply the normal limitation period where it is in the interests of justice. A precedent for such an approach is to be found in England. There, section 33 of the Limitation Act 1980 permits a court to disapply the statutory time period where *"it would be equitable to allow an action to proceed."* In coming to a decision whether to disapply the limitation period, a court is required to consider a number of factors, including the level of prejudice that would be caused to a plaintiff were the statutory limitation period to apply and the level of prejudice that would be caused to the defendant were the court to lift the limitation period. In the meantime, the State should direct the Chief State Solicitor and State Claims Agency not to plead the Statute of Limitations in so-called "historical" institutional abuse cases. The Courts will retain their residual discretion to refuse to allow cases to proceed where it would not be in the interests of justice. The State should also reform the civil legal aid scheme and rules of court procedure to enable multi-party litigation in line with the 2005 Law Reform Commission Report,[252] thereby allowing the efficient and effective use of civil litigation against institutions and individuals for "historical" abuse.

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[252] **[VOL G / TAB 211 / PAGES 6205-6308]:** Law Reform Commission, *Report on Multi-Party Litigation,* 27 September 2005.