

ADVANCE QUESTIONS TO ZIMBABWE – ADD.2

IRELAND

Liberty and Security of Persons – Protection of Human Rights Defenders

Ireland is concerned at the targeting of human rights defenders and civil society activists in Zimbabwe by police and state actors and at allegations at the use of violence and degrading treatment in their detention. Ireland calls on the Government of Zimbabwe, in light of its international commitments in the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights, and Section 21 of the Zimbabwean Constitution, to repeal or amend sections of the Public Order and Security Act and other laws which fail to endorse the rights of human rights defenders and others to freedom of association and peaceful assembly. Ireland also wishes to know if the Government of Zimbabwe is taking any measures to prevent the arbitrary arrest and detention of Human Rights Defenders and members of Civil Society Organisations.

Right to a Fair Trial

Ireland is concerned at allegations of the failure of police and state authorities to guarantee minimum pre-trial rights, such as the defendant's right to access a lawyer, and to ensure adequate conditions of detention. How is the Government of Zimbabwe ensuring police compliance with the right to a fair trial, ensuring the impartiality of the police force and guaranteeing adequate pre-trial detention conditions for detainees?

Torture

Ireland is concerned at allegations of the use of torture and cruel and inhuman treatment by state security agents in Zimbabwe. Ireland recommends that the Government of Zimbabwe extend invitations to all United Nations Special Rapporteur mandate holders, in particular the Special Rapporteur on the situation of Human Rights Defenders and the Special Rapporteur on Torture.

Impunity

Ireland is extremely concerned at allegations of human rights violations by state actors, including, extra-judicial killings, arbitrary arrests, unlawful detention, torture and cruel and degrading treatment. Ireland recommends that the Government of Zimbabwe ensures all incidents where force is used against individuals are promptly and thoroughly investigated, and that sanctions are put in place on police and security officials found to have breached relevant procedures and rules as contained in national legislation. Ireland also recommends the Government ensure that thorough, independent and impartial investigations are carried out of all alleged human rights violations.

Forced Evictions

Ireland recommends that the Government of Zimbabwe end all forced evictions, and develops and implements guidelines for evictions which comply with international

human rights law. Until such guidelines are implemented Ireland calls for a moratorium on mass evictions and for the full implementation of the recommendations contained in the 2005 Report of the United Nations Special Envoy on Human Settlement Issues in Zimbabwe. Ireland also wishes to know what the Government doing to protect its citizens, particularly farm workers, from violence and to ensure protection of property, the right to shelter and access to justice?

Freedom of Expression, Assembly and Association

Ireland is concerned at violations of the right to free expression, assembly and association as set out under the ICCPR because of restrictive measures, including the Public Order and Security Act, and politicisation of police and military authorities. Ireland recommends that the Government of Zimbabwe consider legislative reform, depoliticisation of the police and military or other measures, to prevent hate speech and violations of freedoms of expression, assembly and association.

Death Penalty

Ireland is concerned about the continuing use by Zimbabwe of the death penalty. Ireland maintains a principled and consistent opposition to the use of capital punishment as a cruel and inhuman punishment. It holds no value as a deterrent and renders any miscarriages of justice irreversible. Ireland recommends that Zimbabwe implement a full moratorium with a view to early and total abolition of the death penalty. Ireland also recommends that Zimbabwe ratify the second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at abolition of the death penalty.

NETHERLANDS

Rule of Law

The Constitution of Zimbabwe and provisions in the Criminal Procedure and Evidence Act (CPEA) address the rule of law, fair trial rights and access to justice. However, in practice such rights are not always upheld (particularly when it is alleged that state actors are involved in human rights violations). Taking into account paragraph 122 of the national report which states that improved access to justice is a key national priority, is the government considering separating the functions of the Attorney-General (AG) and the prosecuting authority?

Torture

Section 15 of the Constitution of Zimbabwe prohibits cruel, inhuman and degrading treatment and torture. However, no provision is made in the Criminal Code or other laws, which could result in a legal vacuum when it comes to safeguarding this right. In paragraph 49 of the national report it is stated that Zimbabwe administers corporal punishment to juvenile male offenders. However, a medical officer should certify that the juvenile is medically fit to receive corporal punishments. What measures has the government taken to implement legal and procedural safeguards against torture and ill-treatment and to bring those responsible for such cases to justice?

Freedom of assembly and association

Section 21 of the Constitution provides for freedom of assembly and association and paragraph 55 of the national report elaborates on the right to freedom and association. However, in practice, this constitutional right is curtailed by subordinate legislation, most importantly the Public Order and Security Act (POSA). What steps is the government taking to align national legislation with international standards to ensure freedom of assembly and association, in particular to review POSA?

Freedom of expression

Freedom of expression is preserved in Section 20 of the Constitution of Zimbabwe and referred to in paragraphs 53-54 of the national report. The recent (re-) appearance of several independent newspapers is a welcome development. However, full exercise of the right to freedom of expression is restricted by repressive legislation such as the Access to Information and Protection of Privacy Act (AIPPA) and the Broadcasting Services Act (BSA). What steps is the government taking to promote a pluralistic media environment which ideally includes liberalization of the airwaves, issuance of new broadcasting licenses, allowing private ownership of radio and TV stations? When does the Government intend to include the Media Practitioner's Bill and the review of AIPPA and BSA on the legislative agenda of Parliament?

Non-discrimination of LGBTI-community

The Constitution of Zimbabwe, Section 23, contains provisions on protection from discrimination. Furthermore, in paragraph 60 of the national report it is reaffirmed that the constitution prohibits discrimination on the grounds of sex, gender and marital status. However, the LGBTI-community experiences discrimination both in law and in practice. What steps is the government considering to strengthen to the principles of equality and non-discrimination, thereby fully implementing nationally the international instruments such as article 2 (1) of the ICCPR, and Article 2 of the ACHPR, thereby taking note of the 2002 observation of the African Commission on Human and Peoples' Rights: 'Together with equality before the law, the principle of non-discrimination provided under Article 2 of the Charter provides the foundation for the enjoyment of all human rights ... the aim of this principle is to ensure equality of treatment for individuals irrespective of nationality, sex, racial or ethnic origin, political opinion, religion or belief, disability, age or sexual orientation'.

SWITZERLAND

- Although Zimbabwe has implemented its last death penalty in 2005, it voted against the adoption of the draft General Assembly resolution on a moratorium on the death penalty twice, in 2008 and 2010. What is the actual state of the constitutional debate on the abolition of the death penalty? Is the Government planning to impose an effective moratorium on executions with a view to abolishing the death penalty for all crimes, including murder, treason and military offences?

- Zimbabwe has not ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol. Is the Government taking measures to ratify this relevant international Convention in due time and reflect its provisions in the national legislation?
- In view of the scheduled presidential elections, which concrete legislative and other measures is Zimbabwe envisaging to guarantee the rights to freedom of expression and association? Is the Government planning to take measures to ensure that the Public Order and Security Act doesn't hinder people from enjoying the rights to peaceful assembly by denying requests for meetings for political parties and civil society groups?