

Oral submission by Ireland on the Draft Revised General Comment No. 1 on the implementation of Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Ireland commends the Committee against Torture for its initiative to update General Comment No. 1 and welcomes this opportunity to provide oral comments on paragraphs 19 and 20 of the draft revised General Comment.

Ireland fully agrees with the Committee that diplomatic assurances must not be used as a loophole to undermine the principle of non-refoulement provided for in Article 3. Diplomatic assurances will not be appropriate in certain cases.

However, Ireland is of the view that, when properly utilised, there are circumstances when diplomatic assurances can help to ensure compliance with Article 3 of the Convention in particular and international human rights standards in general. Ireland does not agree therefore with the assertion made in paragraph 20 that diplomatic assurances are inherently contrary to the principle of non-refoulement provided for in Article 3. The practice of seeking diplomatic assurances is well established internationally.

When a State Party is seeking to ensure compliance with Article 3 of the Convention in relation to a particular case, that case must be assessed on the basis of a full examination its own particular facts and circumstances and diplomatic assurances can be a relevant factor. In this regard, Ireland draws the attention of the Committee to the jurisprudence of the European Court of Human Rights in the case of *Othman (Abu Qatada) v. the United Kingdom* (813/09), which found that diplomatic assurances can be a relevant factor that the Court will consider when assessing whether an individual is at risk of ill-treatment contrary to Article 3 of the European Convention for the Protection of Human Rights if deported, and which set out that Court's approach to the consideration to be given to the provision of diplomatic assurances in the circumstances of a particular case.

In light of the foregoing, Ireland would therefore invite the Committee to revise paragraph 20 of the draft revised General Comment No. 1 to reflect current international law.