

Mandatory sentences

In 2013, the Commission published a [Report on Mandatory Sentences \(LRC 108-2013\)](#), which followed the publication of its [Consultation Paper on Mandatory Sentences \(LRC CP 66-2011\)](#). This arose from a request to the Commission by the Attorney General, in accordance with section 4(2)(c) of the Law Reform Commission Act 1975, “to examine and conduct research and, if appropriate, recommend reforms in the law of the State, in relation to the circumstances in which it may be appropriate or beneficial to provide in legislation for mandatory sentences for offences.”

The Report contains a detailed analysis of the development of the law in Ireland on mandatory sentences, as well as analysis of similar laws in other jurisdictions such as the UK and US. The Commission’s Report discusses in detail: (1) the specific aims of criminal sanctions, which include deterrence, punishment, reform and rehabilitation, reparation, and incapacitation; and (2) the key principles in sentencing of consistency and proportionality. The Report contains a detailed analysis of sentencing guidance given by Irish courts in recent years, which have included: (a) the points of departure in the sentencing of certain serious offences, such as manslaughter, rape and robbery; (b) sentencing ranges for serious offences; and (c) factors that aggravate and mitigate the gravity of an offence and severity of a sentence. These key principles of sentencing law form the basis for the Commission’s responses to the Attorney General’s request.

The main recommendations in the Report are:

- a Judicial Council should be able to develop and publish suitable guidance or guidelines on sentencing; and that these would have regard to decisions of the Supreme Court and the Court of Criminal Appeal, to the sentencing principles discussed in the Report, and to information in databases such as the Court Service’s Irish Sentencing Information System (ISIS).
- the mandatory life sentence for murder should be retained.
- where an offender is convicted of murder, and is therefore sentenced to life imprisonment, legislation should provide that the judge may recommend a minimum term to be served by the offender.
- the Parole Board should be established on an independent statutory basis, and welcomes the Government’s proposal to introduce legislation bringing about this effect.
- the presumptive sentencing regime that applies to certain drugs and firearms offences should be repealed and should not be extended to any other offences. The Report notes that the presumptive drugs offences regime has had the following results: the adaptation of the illegal drugs trade to the sentencing regime by using expendable couriers to hold and transport drugs; that these relatively low-level offenders, rather than those at the top of the illegal drugs trade, are being apprehended and dealt with under the presumptive regime; a high level of guilty pleas in order to avoid the presumptive minimum sentence; and a consequent increase in the prison system comprising low-level drugs offenders. The Report also recommends that a more structured, guidance-based sentencing system (as envisaged in the first recommendation mentioned above) would provide an appropriate alternative to these provisions. In the context of drug-related crime, the

Report also considers that law enforcement efforts may be beneficially supplemented by other initiatives, such as those highlighted in the research conducted by the Health Research Board and the Misuse of Drugs work sector of the British-Irish Council.

- the existing legislation concerning mandatory sentences (and, where relevant, presumptive sentences) that applies in the case of second and subsequent offences should also be repealed and should not be extended to any other offences. The Report also recommends that the more structured, guidance-based sentencing system (as envisaged in the Report) would provide an appropriate alternative to these provisions.