



CIVIL LIBERTIES UNION FOR EUROPE



Irish Council for Civil Liberties



Inclusion Ireland
The National Association for People with an Intellectual Disability



Mercy Law Resource Centre



Community Law & Mediation



JUSTICE for SHANE



JUSTICE for SHANE



Irish Penal Reform Trust



Outhouse
LGBT+ Community Resource Centre



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LIBERTIES

RULE OF LAW REPORT

2025



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ABOUT THE AUTHORS

While each of these organisations are experts in their areas of concern, no one of the organisations possesses the expertise sufficient to complete this submission in isolation. This submission represents a compilation of a wide array of material and expertise from the a forementioned organisations, co-ordinated by the Irish Council for Civil Liberties. Inclusion as a contributor does not equate to an endorsement of the submission as a whole.

The Irish Council for Civil Liberties



The Irish Council for Civil Liberties (ICCL) is Ireland's oldest independent human rights body. It has been at the forefront of all major rights advance in Irish society for over 40 years. ICCL helped legalise homosexuality, divorce, and contraception. We drove police reform, defending suspects' rights during dark times. In recent years, we led successful campaigns for marriage equality and reproductive rights

Inclusion Ireland



Established in 1961, Inclusion Ireland is a national, rights-based advocacy organisation that works to promote the rights of people with an intellectual disability. The vision of Inclusion Ireland is that of people with an intellectual disability living and participating in the community with equal rights. Inclusion Ireland's work is underpinned by the values of dignity, inclusion, social justice, democracy and autonomy and we use the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) to guide our work.

Mercy Law Resource Centre



Mercy Law Resource Centre (MLRC) is an independent law centre, registered charity and company limited by guarantee which provides free legal advice and representation to people who are homeless or at risk of becoming homeless in the areas of social housing and related social welfare law. The Centre also seeks to advocate change in laws, policies and attitudes which unduly and adversely impact its client group.

Community Law and Mediation



Community Law & Mediation is an independent community law centre and charity working since 1975 in communities impacted by social exclusion, disadvantage and inequality, through the provision of free legal, mediation and community education services. In 2021, it expanded its services to focus on environmental justice and established the Centre for Environmental Justice which provides free legal advice and training and advocates for a rights-based approach to policy and law reform in the area of environmental justice.

Irish Congress of Trade Unions



Congress is the largest civil society organisation on the island of Ireland, representing and campaigning on behalf of some 800,000-working people. There are currently 44 unions affiliated to Congress, north and south of the border. Congress seeks to achieve a just society - one which recognises the rights of all workers and citizens to enjoy the prosperity and fulfilment which leads to a good quality of life. Quality of life embraces not just material well-being, but freedom of choice to engage in the arts, culture and all aspects of civic life. This vision applies in the context of Ireland, Europe and the wider world and challenges the existing economic order.

Justice for Shane



Justice for Shane was founded following the unlawful killing of Shane O’Farrell in 2011. The errors and failings leading to the death of Shane are such that they undermine public confidence in Government and the administration of justice to an extent that it is imperative that public confidence be restored. This must be done in a manner that the whole public can be assured that the full facts can be established, the failings addressed, appropriate action taken, people held to account, and to ensure that lessons are learned that so that similar failings don’t happen again.

Irish Penal Reform Trust



Established in 1994, the Irish Penal Reform Trust (IPRT) is Ireland’s leading non-governmental organisation campaigning for rights in the penal system and the progressive reform of Irish penal policy. IPRT publishes a wide range of policy positions and research documents; we campaign vigorously across a wide range of penal policy issues; and we have established IPRT as the leading independent voice in public debate on the Irish penal system.

Outhouse



Outhouse is a community and resource centre for LGBT+ people, their families, and friends. Our vision is of a vibrant and safe space for LGBT people, groups & organisations that is inclusive of the diversity within our communities. Our mission is to provide a safe space which facilitates & encourages the growth of services and supports to the LGBT communities. In all of our work, we are guided by principles of community, equality & partnership.

Irish Traveller Movement



Established in 1991, The Irish Traveller Movement (ITM) is the national advocacy and membership platform which brings together Travellers and representative organisations to develop collective solutions on issues faced by the community to achieve greater equality for Travellers. ITM represents Traveller interests in national governmental, international, and human rights settings. ITM challenges racism - individual, cultural and structural – which Travellers face and promotes integration and equality.

Index on Censorship



Index on Censorship is a nonprofit that campaigns for, reports on and defends free expression worldwide. We publish work by censored writers and artists, promote debate, and monitor threats to free speech. We believe that everyone should be free to express themselves without fear of harm or persecution – no matter what their views. Index's aim is to raise awareness about threats to free expression and the value of free speech as the first step to tackling censorship.

KEY CONCERNS

Justice System

The passage of the Court Proceedings (Delays) Act 2024, the commencement of the Judicial Appointments Commission Act 2023 and the formal establishment of the Commission on 1 January 2025 are to be welcomed. Despite this, however, progress on the civil legal aid scheme has stalled and access to justice issues persist. While ongoing reforms of defamation law should reduce costs, no progress on the long-promised reforms of the civil legal aid scheme has taken place.

Anti-Corruption Framework

In spite of government assurances, no draft legislation on public ethics has been published.

In the state submission to the 2024 reporting cycle, the state confirmed its intention to publish a legislative scheme for reform and consolidation of the statutory framework in Q1 2024.¹ This did not happen. The report on reform of the ethics regime has now been with the government for over two years with no concrete action taken.

Media Environment and Media Freedom

While the Defamation (Amendment) Bill has progressed, it seeks to remove juries from

High Court defamation procedures which is in direct opposition to a Parliamentary Committee's recommendations.

The Defamation (Amendment) Bill had not completed the legislative process before the November 2024 Election. It is expected to be re-tabled when parliament reconvenes. There are serious concerns with respect to the proposals to remove juries from High Court defamation proceedings from the perspective of the role of the general public in the administration of justice.

Checks and Balances

Progress has stalled in a number of areas related to checks and balances. There have been no updates on legislation to address online mis/disinformation and despite some reforms, restrictions on the right to vote for the upper house of parliament remain. Pre-legislative scrutiny processes are in danger of becoming pro-forma exercises.

Civic Space

While the enactment of the Charities (Amendment) Act (2024) is welcome, significant work is needed before the section of the act which allows for the advancement of human rights to be considered a charitable purpose can be commenced. There has been no progress on

1 Ireland, Member State Contribution European Commission Annual Rule of Law Report 2024 https://commission.europa.eu/document/download/0123a8f4-05e6-4021-8240-ae39a5d1fb65_en?filename=76_1_58157_input_mem_ireland_en.pdf







addressing funding restrictions on civil society, as imposed by the Electoral Act (1997).

Disregard of Human Rights Obligations and Other Systemic Issues Affecting the Rule of Law Environment

In 2024, there has been no progress on systemic human rights issues. The Minister of Justice is still considering a petition to open a public inquiry into the case of the Sallins men. Victims and families of the Dublin/Monaghan bombings have not received any truth, justice or accountability. There has also been no progress on holding a public inquiry into the case of Shane O’Farrell.

The long-promised review of the Electoral Act (1997), aimed to address funding restrictions on civil society, which was due to commence in 2024 as per strand B of *An Coimisiún Toghcháin’s* research plan² has not happened.

State of play (versus 2024)

-  Justice system
-  Anti-corruption framework
-  Media Environment and Media Freedom
-  Checks and balances
-  Civic Space
-  Human Rights

Legend

Regression **No progress** **Progress**



2 An Coimisiún Toghcháin, The Electoral Commission Research Programme 2024-2026 July 2024 https://cdn.electoralcommission.ie/app/uploads/2024/07/08123719/EC_RESEARCH_PROGRAMME_ENG_ACCESSIBLE.pdf

JUSTICE SYSTEM



Key recommendations

- *The Department of Justice should prioritise and enact the findings of the review of the civil legal aid scheme to enhance access to justice and reduce costs.*
- *The Department of Justice should take steps to enhance access to justice for marginalised groups such as people with disabilities, Travellers and migrants.*

Judicial independence

Appointment and selection of judges, prosecutors and court presidents

The Judicial Appointments Commission Act was finalised by parliament in July 2023³ and was found to be constitutional following a referral to the Supreme Court by the President in December.⁴ The act will establish a new, independent Judicial Appointments Commission (JAC) to select and recommend persons for judicial office in Ireland, including EU and international courts. In October 2024 it

was announced that the JAC will be formally established on 1 January 2025.⁵

Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors

In December 2023 a sitting Circuit Court judge was found guilty of a number of sexual offences dating back to the 1990s.⁶ Under Article 35.4 of the Constitution, a judge of the Supreme Court, Court of Appeal or the High Court cannot be removed from office except for stated misbehaviour or incapacity and then

3 Department of Justice (Ireland) Minister McEntee welcomes the passage of Bill giving effect to major reforms in how judges are appointed 4 July 2023 <https://www.gov.ie/en/press-release/62282-minister-mcentee-welcomes-the-passage-of-bill-giving-effect-to-major-reforms-in-how-judges-are-appointed/>

4 High Court Reporters, *Judicial Appointments Bill constitutional, Supreme Court rules*, [BreakingNews.ie](https://www.breakingnews.ie/ireland/judicial-appointments-bill-constitutional-supreme-court-rules-1562017.html), December 8th 2023 <https://www.breakingnews.ie/ireland/judicial-appointments-bill-constitutional-supreme-court-rules-1562017.html>

5 Department of Justice (Ireland) Judicial Appointments Commission established 17 October 2024 <https://www.gov.ie/ga/nuacht/e9a93-judicial-appointments-commission-established/>

6 Eimear Dodd and Claire Henry, *Long Read: The trial of the judge convicted of sex assaults on young men when working as a teacher*, [Breakingnews.ie](https://www.breakingnews.ie/ireland/long-read-the-trial-of-the-circuit-court-judge-found-guilty-of-assaulting-young-men-as-a-teacher-1568161.html), 22 December 2023 <https://www.breakingnews.ie/ireland/long-read-the-trial-of-the-circuit-court-judge-found-guilty-of-assaulting-young-men-as-a-teacher-1568161.html>

only upon resolutions passed by *Dáil Éireann* and by *Seanad Éireann* (the lower and upper houses of parliament, respectively) calling for their removal. This provision has also been interpreted as applying to Circuit Court judges.⁷ Following the verdict, the Minister for Justice issued a statement outlining that she had written to the Attorney General to examine options for the judge's removal.⁸ An opposition justice spokesperson also wrote to the Judicial Council asking the body to clarify its role in the judge's removal.⁹ The judge resigned in January 2024, avoiding the need for a parliamentary vote on his removal.¹⁰ Advice from the Attorney General on the options to remove the judge was never published.

Promotion of judges and prosecutors

The Judicial Appointments Commission Act (2023)¹¹ provides for a revised and consolidated

process by which sitting judges can apply for appointment to higher courts. This will be done through application to the Commission which will produce a shortlist of candidates for selection for posts. The government can reject all names on the shortlist if it so chooses, as per Section 51 of the act. This process will enter into force in 2025.

Allocation of cases in courts

The Court Proceedings (Delays) Act 2024¹² provides for statutory compensation for breach of the right to a hearing within a reasonable time in both civil and criminal matters. The act provides for the appointment of a Chief Court Delays Assessor and Court Delays Assessors to assess such applications. It also provides for the making of an application to the Circuit Court, in certain circumstances, for such a declaration and compensation, and

7 Association of Judges of Ireland Removal from Judicial Office 27 October 2022 <https://aji.ie/the-judiciary/removal-from-judicial-office/#:~:text=Article%2035.4%20of%20the%20Constitution,%C3%89ireann%20calling%20for%20his%20removal>

8 Gerard O'Brien, *Justice Minister to consult with AG on removal of judge following conviction for sexual assault*, [TheJournal.ie](https://www.thejournal.ie/justice-minister-attorney-general-gerard-obrien-6264424-Jan2024/#:~:text=In%20a%20statement%20following%20O,the%20Attorney%20General%20to%20advise%E2%80%9D), 4 January 2024 <https://www.thejournal.ie/justice-minister-attorney-general-gerard-obrien-6264424-Jan2024/#:~:text=In%20a%20statement%20following%20O,the%20Attorney%20General%20to%20advise%E2%80%9D>

9 Jack Horgan Jones and Pat Leahy, *Sinn Féin pushes for removal of judge convicted of sexual assaults*, [The Irish Times](https://www.irishtimes.com/crime-law/2024/01/04/political-pressure-builds-for-judge-convicted-of-sexual-assaults-to-be-removed-if-he-does-not-resign/), January 4 2024 <https://www.irishtimes.com/crime-law/2024/01/04/political-pressure-builds-for-judge-convicted-of-sexual-assaults-to-be-removed-if-he-does-not-resign/>

10 David MacRedmond, *McEntee confirms resignation of judge Gerard O'Brien following sexual assault conviction*, [TheJournal.ie](https://www.thejournal.ie) 6 January 2024

11 Houses of the Oireachtas (Ireland) No. 33 of 2023 Judicial Appointments Commission Act 2023 <https://www.irishstatutebook.ie/eli/2023/act/33/enacted/en/pdf>

12 Houses of the Oireachtas (Ireland) No. 12 of 2024 Court Proceedings (Delays) Act 2024 <https://data.oireachtas.ie/ie/oireachtas/act/2024/12/eng/enacted/a1224.pdf>

for related matters. It is expected that the act will become operational, and the scheme will open for applications in 2025.¹³

Independence/autonomy of the prosecution service

One of the key recommendations of the report of the Commission on the Future of Policing was that *An Garda Síochána (the Gardaí)*, the state police of Ireland should not be involved in the prosecution of cases.¹⁴ The legislation introduced to implement the Commission's recommendations, the Policing, Security and Community Safety Act 2024, retained this role for the Gardaí and commissioned a High-Level Review Group to review the practice.¹⁵ The report of the High-Level Review Group on the Role of *An Garda Síochána* in the Public Prosecution System ultimately recommended that their role be retained with enhanced oversight.¹⁶ This decision has been criticised

by ICCL and others as being directly opposed to the recommendations of the Commission on the Future of Policing's report, noting that it violates core principles of the separation of policing and prosecutorial powers.

Other

In June 2023 the long-awaited review of the Offences Against the State Acts (OASA) was completed. The majority report recommended replacing the court with a new non-jury arrangement with enhanced safeguards and transparency. The minority report recommended that no non-jury courts should be provided for. Both the majority and minority reports agreed that the OASA should be repealed.¹⁷ As of now, there has been no official timeframe or plan announced by the government to implement the recommendations.¹⁸ The Minister for Justice stated in July 2024 that she was still "considering" the reports in

13 Gazette Desk, *Bill on court delays passes all stages*, Law Society Gazette 24 April 2024 <https://www.lawsociety.ie/gazette/top-stories/2024/april/bill-on-court-delays-passes-all-stages/>

14 The Commission on the Future of Policing in Ireland Final Report 18 September 2018 <https://policereform.ie/en/polref/pages/pb18000006>

15 Houses of the Oireachtas (Ireland) No.1 of 2024 Policing, Security and Community Safety Act (2024) Section 10 <https://www.irishstatutebook.ie/eli/2024/act/1/enacted/en/html>

16 Department of Justice (Ireland) Government approves publication of final report of Review Group on role of An Garda Síochána in public prosecutions 7 February 2024 <https://www.gov.ie/en/press-release/e7d8a-government-approves-publication-of-final-report-of-review-group-on-role-of-an-garda-siochana-in-public-prosecutions/>

17 Department of Justice (Ireland) Minister Helen McEntee publishes independent review of State's primary counter-terrorism legislation 21 June 2023 <https://www.gov.ie/en/press-release/ef280-minister-helen-mcentee-publishes-independent-review-of-states-primary-counter-terrorism-legislation/#:~:text=Commenting%20on%20the%20majority's%20recommendation,subversives%20and%20organised%20criminal%20groups.>

18 Irish Council for Civil Liberties (ICCL), *Minister must implement Review Group's recommendation and repeal the Offences Against the State Acts*, 27 June 2023 <https://www.iccl.ie/news/minister-must-implement-review-groups-recommendation-and-repeal-the-offences-against-the-state-acts/>

the Oireachtas¹⁹ renewal debate for the OASA as is required annually.²⁰

Quality of justice

Accessibility of courts (e.g. court fees, legal aid, language)

A public consultation on the review of the existing civil legal aid scheme was concluded in February 2023. As of December 2024, no further updates have been made public.²¹ Following a general election in November 2024, and with the process of forming a new government underway, there is currently no commitment that the report on the review of civil legal aid will be published, or that reform of the Civil Legal Aid Scheme will be progressed. It is essential that reforms are prioritised to avoid public money continuing to fund a wholly unfair and inadequate scheme.

In 2024 The Department of Justice commenced a technical support instrument (TSI) project²² with the European Commission, the OECD,

Malta, Italy and the Netherlands to develop people-centred justice services, which necessitate the development and administration of a national-level legal needs survey. Ireland has not yet administered such a legal needs survey, an essential legal support for planning and delivering services. There is also no clarity on whether this will be covered in the review of Civil Legal Aid.

Access to Justice — A recently released report found that disabled people often have the greatest legal needs while also encountering the most significant obstacles when attempting to access the Irish justice system.²³ Despite the introduction of legislation and public policy aimed at improving access to justice for disabled people, significant challenges persist. The research highlights many challenges, including the critical issue of misalignment between Irish law and international human rights standards, particularly the Convention on the Rights of Persons with Disabilities. Additionally, the interplay between different legal frameworks within the Irish Justice System was found to

19 Oireachtas refers to the Irish Parliament which consists of two chambers. The lower chamber (the Dáil) and the upper chamber (The Seanad)

20 Dáil Éireann Debate Tuesday, 25 Jun 2024 Vol. 1056 No. 3 Offences against the State (Amendment) Act 1998 and Criminal Justice (Amendment) Act 2009: Motions <https://www.oireachtas.ie/en/debates/debate/dail/2024-06-25/15/>

21 Dáil Éireann Debate Tuesday 30 April 2024: Legal Aid-Parliamentary questions Claire Kerrane TD <https://www.oireachtas.ie/en/debates/question/2024-04-30/496/>

22 European Commission Technical Support Instrument (TSI)- About the TSI https://commission.europa.eu/funding-tenders/find-funding/eu-funding-programmes/technical-support-instrument/technical-support-instrument-tsi_en

23 Irish Human Rights and Equality Commission, *Commission Study finds Significant Barriers to Justice for Disabled People in Ireland*, 3 December 2024 <https://www.ihrec.ie/commission-study-finds-significant-barriers-to-justice-for-disabled-people-in-ireland/>

be complex. There is fragmented research and a lack of comprehensive data collection on access to justice for disabled people in Ireland and their experiences. This deficiency inhibits understanding of the full scope of barriers faced by them and hinders evidence-based policymaking.

A 2022 Irish Human Rights and Equality Commission (IHREC) review²⁴ of Section 19 of the Intoxicating Liquor Act 2003 (2022) concluded that the enforcement of the legislation was disproportionately used to deny services to Travellers, Roma and disabled people, and called for a Ministerial review. No progress has been made to date, although the call was reiterated by IHREC in 2024.

Despite the recommendation of the Expert Review Report on Traveller Accommodation

2019,²⁵ no progress has been made in reviewing Criminal Trespass legislation; as introduced in Section 10 of the Housing (Miscellaneous Provisions) Act, 1992²⁶ and Section 69 of the Roads Act, 1993.²⁷ In January 2022 the Supreme Court upheld a family's appeal against their eviction (*McDonagh v Clare County Council*²⁸) The case focused on their unauthorised presence on a Clare Council-owned site, having not been provided with appropriate accommodation by the Council elsewhere. The Supreme Court considered the constitutional protection afforded to the home and under Article 8 of the European Convention on Human Rights.²⁹ The repeal of this legislation has not progressed as of October 2024 with the *Gardaí* on record as opposing the repeal.³⁰ The negative cultural and human impact of the legislation, which curtails cultural expression and freedom of Travellers to

24 Irish Human Rights and Equality Commission, *Urgent Change Needed to Laws on Discriminatory Access to Licenced Premises*, 14 February 2022 <https://www.ihrec.ie/urgent-change-needed-to-laws-on-discriminatory-access-to-licenced-premises/#:~:text=The%20Irish%20Human%20Rights%20and,line%20with%20other%20discrimination%20complaints>.

25 The Housing Agency Traveller Accommodation Expert Review July 30 2019 <https://www.housingagency.ie/publications/traveller-accommodation-expert-review-2019>

26 Houses of the Oireachtas No. 18 of 1992 Housing (Miscellaneous Provisions) Act, (1992) <https://www.irishstatutebook.ie/eli/1992/act/18/enacted/en/print>

27 Houses of the Oireachtas No. 14 of 1993 Roads Act (1993) <https://www.irishstatutebook.ie/eli/1993/act/14/enacted/en/print>

28 Supreme Court (Ireland) Judgment of 31 January 2022 *Clare County Council v McDonagh & Anor [2022] IESC 2* <https://www.ucc.ie/en/tejp/traveller-law-database/clare-county-council-v-mcdonagh--anor-2022-iesc-2-.html>

29 Free Legal Advice Centres (FLAC), *FLAC welcomes landmark Supreme Court decision concerning the summary eviction of Travellers and seeks urgent legislative reform*, 31 January 2022 <https://www.flac.ie/news/2022/01/31/flac-welcomes-landmark-supreme-court-decision-conc/>

30 Department of Housing, Local Government and Heritage (Ireland), *Traveller Accommodation Expert Review Programme Board Update*, October 2024 <https://assets.gov.ie/297444/73b5b5d0-b82c-4d73-810c-40126cadf6da.pdf>

conduct their traditional nomadic way of life³¹ is not being addressed.

Ireland's equality legislation — Following a public consultation on a review of Ireland's Equality Acts in 2021, the Department of Children, Equality, Disability, Integration and Youth published a report in July 2023 summarising the issues raised in the submissions to the public consultation.³² The report noted several submissions on the difficulty of taking a case before the Workplace Relations Commission, restrictive time limits, lack of reasonable accommodation to support people to access justice and the need for procedural accommodation and supports (such as interpreters, captioned videos, ISL interpretation and audio description of all processes and forms), the need for civil legal aid, the need for dedicated legal services for marginalised groups and the need for all discrimination complaints under the Equality

Acts to be heard by the Workplace Relations Commission in the first instance. Despite the inclusion of the heads of the Equality Acts Amendment Bill in the summer 2024 legislative programme - aimed at providing for legislative amendments arising from the review of the Equality Acts - there has been no substantive progress to date.³³ The most recent review by a UN treaty monitoring body, the UN Committee on Economic, Social and Cultural Rights (CESCR) expressed concern in relation to the “continued absence of comprehensive anti-discrimination legislation in the State party,” making a series of recommendations on legislative changes, as well as calling on the State to take all necessary measures to prevent and combat the persistent discrimination, racism and inequality faced by marginalised groups, in particular in the areas of decent work, social security, health care and services, adequate housing and education.³⁴ The ongoing delays

31 Pavee Point Travellers Centre and The Irish Human Rights and Equality Commission *Travellers Cultural Rights: The Right to Respect for Traveller Culture and Way of Life* November 2008 <https://www.paveepoint.ie/wp-content/uploads/2023/12/Travellers-Cultural-Rights.pdf>

32 Department of Children, Equality, Disability, Integration and Youth (Ireland): Minister O’Gorman publishes report on the submissions to the public consultation on the Review of the Equality Acts, 12 July 2023 <https://www.gov.ie/en/press-release/cafb4-minister-ogorman-publishes-report-on-the-submissions-to-the-public-consultation-on-the-review-of-the-equality-acts/>

33 Department of the Taoiseach: Government Chief Whip, Minister Naughton, Publishes Summer Legislative Programme with 53 priority bills due for progression April 16 2024 <https://www.gov.ie/en/press-release/8d6b7-government-chief-whip-minister-naughton-publishes-summer-legislative-programme-with-53-priority-bills-due-for-progression/>

34 United Nations (UN), CESCR, Concluding observations on the fourth periodic report of Ireland E/C.12/IRL/CO/4, para 23, 20 March 2024 https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx?Lang=En&CountryID=83

in bringing legislation forward have also been highlighted by IHREC.³⁵

Family justice — Long waiting times, overly bureaucratic processes, and at times high legal costs continue to pose barriers for those going through family court proceedings. A Family Courts Bill to provide for the establishment of a Family High Court, Family Circuit Court and Family District Court was published in November 2022 and was enacted as the Family Courts Act in November 2024.³⁶ It is hoped that the passage of this act alongside the construction of a new dedicated family court facility in Dublin³⁷ will enhance access to justice for families.

Resources of the judiciary (human/financial/material)

The Judicial Panel Working Group published its delayed report in February 2023. The group made 54 recommendations³⁸ on the future

resourcing needs of the judicial system, including the need to appoint new judges. Over the course of 2023-2024 a total of 44 new judges have been appointed. Additional resources to reduce waiting times have also been introduced. Long delays for hearings continue, however. Delays in trials for the Central Criminal Court now stand at 52 weeks for persons on bail and 50³⁹ weeks for those in custody.

Training of justice professionals (including judges, prosecutors, lawyers, court staff)

The Sentencing Guidelines and Information Committee, established under the Judicial Council Act 2019, is tasked with preparing sentencing guidelines and monitoring their operation, as well as collating information on sentences imposed by the courts and disseminating the information to judges and others. It comprises 13 members, including eight judges nominated by the Chief Justice and five lay members appointed by the government. It

35 Irish Human Rights and Equality Commission, *Ireland and the 6th Monitoring Cycle of the European Commission against Racism and Intolerance* June 2024 <https://www.ihrec.ie/app/uploads/2024/06/Ireland-and-the-6th-Monitoring-Cycle-of-the-European-Commission-against-Racism-and-Intolerance-Final.pdf>

36 Houses of the Oireachtas, No. 48 of 2024 Family Courts Act (2024) <https://data.oireachtas.ie/ie/oireachtas/act/2024/48/eng/enacted/a4824.pdf>

37 Courts Desk, *Go-ahead for new family-courts complex*, Law Society Gazette, 11 April 2024 <https://www.lawsociety.ie/gazette/top-stories/2024/april/go-ahead-for-new-family-courts-complex/>

38 Department of Justice (Ireland): Judicial Planning Working Group Report 24 February 2023 <https://www.gov.ie/en/collection/af6ff-judicial-planning-working-group-report/>

39 Department of Justice (Ireland): Minister McEntee secures government approval for 20 additional Judges 22 October 2024 <https://www.gov.ie/en/press-release/b50ba-minister-mcentee-secures-government-approval-for-20-additional-judges/>

has not yet published specific guidelines on sentencing but has undertaken and published a number of pieces of research to inform its work including most recently ‘A Study of District Court Judges Views on Sentencing and the Sentencing of Relationship Violence’⁴⁰ which will inform new sentencing guidelines due to be published in early 2025. The research found that most district court judges would welcome guidance on a variety of issues but were concerned about guidelines interfering with their sentencing discretion. They also requested “more continuing professional development training delivered via innovative teaching and learning methods be employed to address the challenges presented by court sitting times”.

Other

In November 2024, the Department of Justice launched research, authored by Dr Niamh Maguire (South East Technological University) and Professor Nicola Carr (University of Nottingham) on sentencers’ perspectives on community service orders (CSOs) and

short-term prison sentences.⁴¹ Through surveys with members of the judiciary, it examines the impact of the Criminal Justice (Community Service) (Amendment) Act 2011 which imposed a new duty on judges to consider imposing a CSO as an alternative to a prison sentence of 12 months or less. At the same time, recourse to imprisonment in Ireland continues to rise to record levels. As of December 2024, there are over 5000 people in prison.⁴² The research provides insights into the reasons for the continued over-use of short prison sentences of less than 12 months and the underutilisation of CSOs, in addition to shedding light on the barriers – both real and perceived – to the increased use of CSOs and potential options for increasing their uptake. It concludes that there are gaps in sentencing data particularly around the “experiences and longer-term outcomes of people subject to community service orders, exploring areas such as impacts on social inclusion, employability etc”.⁴³ The research found that the judiciary is positively disposed to receiving this information and would also

40 Dr Niamh Maguire, *A Study of District Court Judges Views on Sentencing and the Sentencing of Relationship Violence* Southeast Technological University, 12 December 2024 <https://judicialcouncil.ie/assets/uploads/documents/SETU%20Report.pdf>

41 Dr Niamh Maguire & Prof Nicola Carr, *Community or Custody? A Review of Evidence and Sentencers’ Perspectives on Community Service orders and Short-Term Prison Sentences*, Department of Justice (Ireland) November 2024 <https://www.gov.ie/pdf/?file=https://assets.gov.ie/311051/2f038ca5-68f5-4b08-a770-0a856aa1c482.pdf#page=null>

42 Irish Prison Service, *Prisoner Population Report*, 12 December 2024 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/12-December-2024.pdf

43 Irish Prison Service, *Prisoner Population Report*, 12 December 2024 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/12-December-2024.pdf

welcome more information on the substantive operations of CSOs.

Fairness and efficiency of the justice system

Length of proceedings

In April 2020, the European Court of Human Rights (ECtHR) delivered its decision in the case of *Keaney v Ireland*. In that case, the Applicant claimed that a delay of over 11 years between the initiation of proceedings and the date of judgement of final appeal in the Supreme Court was excessive. The court found that this delay was excessive and a violation of Article 6 of the ECHR. The court further found that there was no effective remedy for a delay of this nature in the Irish courts. The court noted that Ireland has persistently not met its obligations in this regard and that lengthy delays in litigation were systemic.⁴⁴ The Keaney case is one of many to come before the ECtHR on the length of proceedings in Ireland and Keaney was chosen by the court as a lead case on the issue. The forthcoming

Court Proceedings (Delays) Act is expected to address this judgment.⁴⁵

Respect for fair trial standards including in the context of pre-trial detention

In recent years there has been a growth in the number of people being held on remand (pre-trial detention). Between 2019 and 2023 there has been a 23% increase in the average number of people held on remand.⁴⁶ It is concerning that in October 2024, the number of people in custody on remand was 861 with 72 of those held on remand for more than a year.

In November 2024 the Irish national police force (*an Garda Síochána*) published photos of 99 people whom they described as “persons of interest” in connection with riots that took place in Dublin in November 2023. While issuing photos to request information from the public is common practice, the scale of this publication was unprecedented. ICCL raised concerns that this action did not meet the thresholds of necessity and proportionality.⁴⁷ It also raises questions and concerns about potential misidentification and people’s

44 ECtHR [Fifth Section] Judgment of 30 April 2020, *Keaney v. Ireland*, no. 72060/17 (2017) [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-202411%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-202411%22]})

45 Rebecca Halpin, *Court Proceedings (Delays) Bill 2023 Bill No. 17 of 2023*, Oireachtas Library and Research Service: Bills Digest May 23 2023 https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2023/2023-06-13_bill-digest-court-proceedings-delays-bill-2023_en.pdf

46 Irish Prison Service, *Monthly Information Note*, Accessed 16 January 2025 <https://www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/>

47 Vivienne Clarke, *ICCL raises concerns over sharing of images from Dublin riots*, *Breakingnews.ie*, 20 November 2024 <https://www.breakingnews.ie/ireland/iccl-raises-concerns-over-sharing-of-images-from-riots-1697820.html>

rights to presumption of innocence and to a fair trial, if charged with a crime.⁴⁸ It was later revealed that the *Gardaí* did not consult with the Data Protection Commission on the possible data protection concerns before publishing the images.⁴⁹

Following the publication, the *Gardaí* website crashed, indicating that many people were curious to see the photos. ICCL is concerned that there is scope for the photos to be disseminated widely through social media and other channels. Questions regarding how the *Gardaí* will protect the safety of people in the photos and prevent against the risk of doxxing and malicious information being provided to the *Gardaí* remain unanswered. The appropriate safeguards were not put in place to ensure people's rights were respected.

Rules on withdrawal and recusal of judges and their application in practice

In February 2022⁵⁰ the Judicial Council adopted 'Guidelines for the Judiciary on Conduct and Ethics', outlining the standard of

conduct of the judiciary and rules surrounding withdrawal and recusal. These guidelines are based on the constitutional principles of independence and impartiality, the Bangalore Principles of Judicial Conduct⁵¹ and the Judicial Council Act 2019. S. 43 (3) of the 2019 Act outlines the procedure for the recusal of a judge and the role of the Judicial Council.

Other

Absence of an alternative forum for resolution of housing disputes — Mercy Law Resource Centre (MLRC) frequently engages with local authorities on housing matters and pursues informal appeals against refusals of housing entitlements through those authorities. There is wide variation in how such appeals are processed and a general lack of transparency as part of the formalised process to be followed should an applicant wish to appeal a negative decision. Clients who are refused a service or an entitlement are frequently not informed that they have any right of appeal, a right that arises by virtue of fair procedure. Appeals can be lengthy to determine and there are, in some

48 Sarah Burns, *Dublin riots: 90 persons of interest identified after Garda photo appeal*, Irish Times 27 November 2024 <https://www.irishtimes.com/crime-law/2024/11/27/dublin-riots-90-persons-of-interest-identified-after-garda-photo-appeal/>

49 Conor Lally, *Garda did not tell Data Protection Commission it was releasing 99 Dublin riot images*, Irish Times, 9 December 2024 <https://www.irishtimes.com/crime-law/2024/12/09/garda-didnt-tell-data-protection-commission-it-was-releasing-99-dublin-riot-images/>

50 Chief Justice Donal O'Donnell, *Guidelines for the Judiciary on Conduct and Ethics*, The Judicial Council (Ireland), 4 February 2022 <https://judicialcouncil.ie/assets/uploads/documents/Guidelines%20for%20Judicial%20Conduct%20and%20Ethics.pdf>

51 The United Nations (UN), United Nations Office on Drugs and Crime(UNDOC), *The Bangalore Principles of Judicial Conduct* 2002, <https://www.unodc.org/documents/ji/training/bangaloreprinciples.pdf>

instances, a failure to apply independent mechanisms to these procedures.

2023 saw a continued increase in the number of queries received relating to refusal of access to emergency accommodation, rising by more than 100 as against 2022. These cases reflect an ongoing, increasing difficulty in accessing basic temporary homeless supports for growing numbers of individuals and families such as temporary emergency housing. Many of these cases involved a failure to carry out a homeless assessment in line with the responsibilities of Local Authorities under Section 2 of the Housing Act 1988,⁵² or a failure to give reasons for a decision to refuse to provide emergency accommodation, in line with the requirements of fair procedures. The vast majority of these initial decisions were reversed following the engagement of MLRC, though the need to have recourse to solicitors to access basic, emergency homeless support is concerning. The continuing rise in cases reflects a trend of increasingly formal barriers for people experiencing homelessness to access basic services

such as emergency accommodation. Given this, it is deeply concerning that the provision of legal support is only available through a small number of charities such as MLRC and Community Law and Mediation (CLM).

MLRC has long called for the development of less formal and community-based initiatives designed to protect the right to housing. In 2024, the government signalled its intention to change the eligibility criteria for access to social housing supports through proposals contained in the General Scheme of the Housing (Miscellaneous Provisions) Bill 2024. These proposals included the introduction of ‘right to reside’ and ‘habitual residence’ conditions into the framework. There was broad consensus among the independent law centres and other organisations (FLAC, Mercy Law Resource Centre, CLM and Crosscare) that the proposals, which were brought forward without any structured or formal consultation, were unworkable, unclear and unduly complex, and would potentially give rise to violations of EU law.^{53,54} The proposed changes were not

52 Houses of the Oireachtas, No. 28 of 1988, Housing Act (1988) <https://www.irishstatutebook.ie/eli/1988/act/28/enacted/en/html>

53 Joint Committee on Housing, Local Government and Heritage (Ireland), *Opening Statement by Community Law & Mediation*, 23 April 2024 https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_housing_local_government_and_heritage/submissions/2024/2024-04-23_opening-statement-rose-wall-ceo-community-law-and-mediation_en.pdf

54 Joint Committee on Housing, Local Government and Heritage (Ireland), *Report on the Pre-Legislative Scrutiny of the General Scheme of the Housing (Miscellaneous Provisions) Bill, (2024)* May 2024 https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_housing_local_government_and_heritage/reports/2024/2024-05-29_report-on-the-pre-legislative-scrutiny-of-the-general-scheme-of-the-housing-miscellaneous-provisions-bill-2024_en.pdf

incorporated into the final version⁵⁵ but are still under consideration.

The Committee's pre-legislative report also asked that a "robust and independent appeals mechanism be included in the legislation" operated via central government.⁵⁶ Amended legislation on this point has not returned to the Oireachtas. Such a mechanism, where it results in a more accessible and formalised mechanism for disputing such refusals, reducing the inconsistencies and related unfairness of the current procedures, would be welcome.

Similarly, in 2023 the Department of Housing, in a closed consultation,⁵⁷ proposed amendments to Sections 2 and 10 of the Housing Act 1988. These proposed amendments, which sought to apply local connection criteria, introduce a residency condition, link access to emergency accommodation with social housing supports and establish a humanitarian

assistance programme on a non-statutory basis for those who will no longer be entitled to Section 10 supports. These amendments will limit access to vital supports for many households facing homelessness, rather than meaningfully protecting their housing needs. They will create significant barriers and delays that will impact the most vulnerable and marginalised in society, including victims of domestic violence, victims of trafficking, members of the Roma and Traveller communities, migrants and the undocumented. These proposals were brought forward without any formal public consultation process.⁵⁸ Any review should consider the social housing and emergency accommodation legal landscape in its entirety and involve extensive and participatory public consultation to ensure meaningful protection for the most vulnerable and marginalised in society.

Restrictions on access to judicial review in planning and environmental matters — The

55 Houses of the Oireachtas, No.39 of 2024, Housing (Miscellaneous Provisions) Act (2024) <https://data.oireachtas.ie/ie/oireachtas/act/2024/39/eng/enacted/a3924.pdf>

56 Joint Committee on Housing, Local Government and Heritage (Ireland), *Report on the Pre-Legislative Scrutiny of the General Scheme of the Housing (Miscellaneous Provisions) Bill, (2024)* May 2024 https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_housing_local_government_and_heritage/reports/2024/2024-05-29_report-on-the-pre-legislative-scrutiny-of-the-general-scheme-of-the-housing-miscellaneous-provisions-bill-2024_en.pdf

57 Jack Horgan Jones, *Homeless groups warn against tightening access to emergency accommodation*, Irish Times 11 January 2024 <https://www.irishtimes.com/ireland/social-affairs/2024/01/11/homeless-groups-warn-against-tightening-of-access-to-emergency-accommodation/>

58 Laoise Neylon, *Government looks to cut off access to homeless hostels for some immigrants*, Dublin Inquirer, 29 November 2023 <https://dublininquirer.com/2023/11/29/government-looks-to-cut-off-access-to-homeless-hostels-for-some-immigrants/>

Planning and Development Bill was enacted on 17 October 2024,⁵⁹ Part 9 of which restricts access to judicial review in planning matters, undermining the significant progress Ireland has made to standing and cost rules in recent years as a result of its adoption of the Aarhus Convention. New requirements include unincorporated bodies such as residents' associations having their standing subject to several conditions regarding their form and nature. For example, they must now provide a list of names and addresses of the members who have voted to take judicial review proceedings, a measure that can only be designed to produce a chilling effect and intimidate local groups from potential challenges.

In addition to other conditions, environmental NGOs must have existed for not less than one year prior to the proceedings and are required to have no fewer than 10 members at the time the proceedings are brought. The ability of ordinary members of the public to bring questions about the legality of administrative decisions to the High Court is a vital aspect of our legal system and not one which should be curtailed in any way. The new restrictions undermine the rights that members of the public and NGOs are entitled to under the Aarhus Convention, ratified by Ireland in 2012.

59 Houses of the Oireachtas, No. 34 of 2024, Planning and Development Act (2024) <https://data.oireachtas.ie/ie/oireachtas/act/2024/34/eng/enacted/a3424.pdf>

ANTI-CORRUPTION FRAMEWORK -

Key recommendations

- *The Department of Public Expenditure and Reform should publish and swiftly enact legislation to reform and consolidate the statutory framework for public ethics which has been outstanding now for four years.*
- *Ensure that the Standards in Public Office Commission (SIPO) is equipped to deliver on its remit to detect, prevent and punish corruption.*

Levels of corruption

Perceptions of corruption in Ireland have remained stable and at a low level. Ireland is ranked 11th out of 180 jurisdictions, according to Transparency International's 2023 Corruption Perception index.⁶⁰ Issues which were highlighted in previous country submissions remain unaddressed. These include the resignation of two government ministers in 2022⁶¹

as a result of failures to declare interests in properties.

Framework to prevent corruption

Integrity framework including incompatibility rules (e.g.: revolving doors)

In 2021, the Government announced a review of Ireland's existing statutory framework for Ethics in Public Life.⁶² The Review of Ethics

60 Transparency International: *Corruption Perceptions Index: Ireland 2023* <https://www.transparency.org/en/countries/ireland>

61 For details, see *Ireland Country Chapter, Liberties Rule of Law Submission 2023* <https://www.iccl.ie/wp-content/uploads/2023/02/230220-Liberties-Rule-of-Law-Report-2023-Ireland-Chapter.pdf>

62 Department of Public Expenditure, NDP Delivery and Reform (Ireland), Minister McGrath launches Public Consultation on Review of Ethics Legislation, 25 November 2021 <https://www.gov.ie/en/press-release/aec32-minister-mcgrath-launches-public-consultation-on-review-of-ethics-legislation/>

Legislation sought a review of the statutory framework covering^{63,64} corrupt payments to politicians. The review was published in February⁶⁵ but no updates have been provided on plans for reform. This is despite the government's stated commitments on reforms, as included in the state's contribution to the 2024 rule of law reporting cycle (see section on implementation of 2024 recommendations).

General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)

The Regulation of Lobbying (Amendment) Act 2023 was signed into law in July 2023 and came into force on a staggered basis in January and June 2024. This act enhances certain

aspects of the principal act by increasing the categories of groups which are subject to its provisions. It also improves the operation and enforcement of Section 22 of the act, which deals with restrictions on post-term employment for former ministers as lobbyists for areas in which they previously had responsibility.⁶⁶

Rules on preventing conflicts of interest in the public sector

In June 2024, concerns were raised regarding the ability of former members of parliament to have unrestricted access to parliamentary buildings to conduct lobbying activities.⁶⁷ This matter had previously been highlighted by the Joint Committee on Finance, Public Expenditure and Reform and Taoiseach in its report on the Pre-Legislative Scrutiny of the General Scheme of the Regulation of Lobbying

63 Government of Ireland, *Report of the Tribunal of Inquiry into Payments to Politicians and Related Matters (Moriarty Tribunal Report)*, December 2006 https://moriarty-tribunal.ie/wp-content/uploads/2016/09/SITECONTENT_26.pdf

64 Government of Ireland, *Report of the Tribunal of Inquiry into Certain Planning Matters and Payments (Mahon Tribunal Report)* 22 March 2012 https://pt-cdn-prod.s3.eu-west-1.amazonaws.com/wp-content/uploads/2019/04/02115105/sitecontent_1257.pdf

65 Department of Public Expenditure, NDP Delivery and Reform (Ireland): Review of Ireland's Statutory Framework for Ethics in Public Office, 3 February 2023 <https://www.gov.ie/en/publication/bc390-review-of-irelands-statutory-framework-for-ethics-in-public-office/>

66 Arthur Cox, *Modifications to the Regulation of Lobbying in Ireland*, 18 August 2023 <https://www.arthurcox.com/knowledge/modifications-to-the-regulation-of-lobbying-in-ireland/>

67 Fionnán Sheahan, *Lobbying in Leinster House: How Dáil chair's private dining room was used by big business*, Irish Independent 23 April 2024 <https://www.independent.ie/opinion/analysis/lobbying-in-leinster-house-how-dail-chairs-private-dining-room-was-used-by-big-business/a1081832731.html?errorCode=0>

(Amendment) Bill (2022).⁶⁸ The committee recommended that the automatic granting of access to the parliamentary complex for ex-members should be discontinued. However, the Regulation of Lobbying (Amendment) Act does not comply with this recommendation.

Investigation and prosecution of corruption

Effectiveness of investigation and application of sanctions for corruption offences (including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds. Please provide data where available.

Responsibility for the detection and prevention of corruption is fragmented and spread across several bodies including SIPO, the Corporate Enforcement Authority and *an Garda Síochána*.

The fragmentation of responsibilities has led to accusations of inefficiency and incoherence.⁶⁹

Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

SIPO has repeatedly claimed that it has insufficient powers⁷⁰ to execute its remit to address corruption and malfeasance in the political system. In December 2024 it came to light that SIPO lobbied the government to not be given the responsibility to take on the enforcement of “cooling off periods”, as legislated for in the Regulation of Lobbying (Amendment) Bill (2022). It claimed it had insufficient resources to carry out this function and that the proposals were “completely unworkable”⁷¹ and should be left to the courts.

68 Joint Committee on Finance, Public Expenditure and Reform and Taoiseach (Ireland), *Report on the Pre-Legislative Scrutiny of the General Scheme of the Regulation of Lobbying (Amendment) Bill 2022* 14 July 2022 https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_finance_public_expenditure_and_reform_and_taoiseach/reports/2022/2022-07-22_report-on-the-pre-legislative-scrutiny-of-the-general-scheme-of-the-regulation-of-lobbying-amendment-bill-2022_en.pdf

69 Gary Murphy, Robert Gillanders and Michael Breen, *A question of political will: Corruption and Public Administration in Ireland*, Vol. 38 No. 1 (2019): DPCE Online 1-2019 <https://www.dpceonline.it/index.php/dpceonline/article/view/681>

70 Regulatory Desk, *More public bodies are beyond SIPO scope*, Law Society Gazette, 26 July 2024 <https://www.lawsociety.ie/gazette/top-stories/2024/july/more-public-bodies-remain-outside-sipo-scope/>
Ken Foxe, *Public ethics watchdog SIPO could not probe undeclared donations to Paschal Donohoe last year*, TheJournal.ie, 24 October 2024 <https://www.thejournal.ie/sipo-could-not-probe-paschal-donohoe-complaint-6524016-Oct2024/>
Ellen O’Riordan, *SIPO says complaint about Varadkar not part of its remit*, Irish Times, 14 February 2024 <https://www.irishtimes.com/crime-law/courts/2024/02/13/sipo-says-complaint-about-varadkar-not-part-of-its-remit/>

71 Ken Foxe, *‘Completely unworkable’: Plans for Sipo to enforce lobbyists’ cooling-off periods criticised*, Irish Times, 11 December 2024 <https://www.irishtimes.com/crime-law/courts/2024/12/11/completely-unworkable-plans-for-sipo-to-enforce-lobbyists-cooling-off-periods-criticised/>

MEDIA ENVIRONMENT AND MEDIA FREEDOM



Key recommendations

- Complete the Passage of the Defamation (Amendment) Bill 2024 in the Oireachtas but the Department of Justice should abandon plans to remove juries from the process.
- The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media should agree on a long-term funding plan for public sector broadcasting.

Media and telecommunications authorities and bodies

Independence, enforcement powers and adequacy of resources of media and telecommunication authorities and bodies

The Future of Media Commission was established by the Government in 2020 to examine the future of the media in Ireland, including Ireland's public service broadcasters, commercial broadcasters, print and online media platforms. The Commission's final report was published in July 2022.⁷² It contains over 50 recommendations on the structure and

financing of media in Ireland. The report recommends moving away from the "television licence fee" model of funding public broadcasting to one of direct exchequer funding. In July 2024 an interim three-year funding agreement was reached⁷³ which provides for additional exchequer funding, however a long-term funding plan is yet to be agreed on. The National Union of Journalists (NUJ) has expressed dissatisfaction with this arrangement as the decision on the abolition of the licence fee funding model for public service broadcasting has again been delayed.⁷⁴

72 The Future of Media Commission (Ireland): *Final Report of the Future of Media Commission*, 12 July 2022 <https://www.gov.ie/en/publication/ccae8-report-of-the-future-of-media-commission/>

73 Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (Ireland) Minister Martin announces Government agreement on funding of RTÉ and Public Service Media 24 July 2024 <https://www.gov.ie/en/press-release/8b877-minister-martin-announces-government-agreement-on-funding-of-rte-and-public-service-media/>

74 News Desk, 'Kicking can down the road' - NUJ disappointed with RTÉ funding model, RTÉ News, 24 July 2024, <https://www.rte.ie/news/ireland/2024/0724/1461597-rte-funding-reaction/>

Coimisiún na Meán (The Media Commission) was established in 2023 and has responsibility for the regulation of online and broadcast media.⁷⁵ ICCL recommended that the Commission act to switch off algorithms on online platforms which promote extremism.⁷⁶ However, this safeguard was not included in the Online Safety Codes as published in October 2024.⁷⁷

Public service media

Editorial standards (including diversity and non-discrimination)

The NUJ has indicated that it will write to the main opposition party, Sinn Féin, to express concerns regarding a call from the party for a review of RTÉ's coverage of Gaza for "bias".⁷⁸

Financing (including transparency of financing)

The failure to provide adequate funding and to reform the licence collection system has had an impact on the main public service broadcaster, RTÉ.⁷⁹ As of January 2024, the government has not provided information on long-term proposals for funding of public service broadcasting beyond the three-year agreement, as outlined previously. The NUJ views this action as an impediment to securing the future viability of public service broadcasting as it fails to address long-term funding concerns.⁸⁰

75 Coimisiún na Meán (Ireland), Accessed 16 January 2025 <https://www.cnam.ie/>

76 Irish Council for Civil Liberties (ICCL), *A binding Code against toxic algorithms Submission to the Media Commission of Ireland*, 4 September 2023 <https://www.iccl.ie/digital-data/media-commission-urged-to-switch-off-big-techs-toxic-algorithms/>

77 Coimisiún na Meán (Ireland), *Online Safety Code*, 21 October 2024 https://www.cnam.ie/app/uploads/2024/10/Coimisiun-na-Mean_Online-Safety-Code.pdf

78 Diarmuid Pepper, *Taoiseach says Sinn Féin pledge to review RTÉ's Gaza coverage is a 'dog whistle to conspiracy theorists'* *TheJournal.ie*, 20 November 2024 <https://www.thejournal.ie/taoiseach-says-sinn-fein-pledge-a-dog-whistle-to-conspiracy-theorists-6547589-Nov2024/>

79 Jane Moore, *TV licence fee in place for RTÉ 'utterly broken', Dee Forbes tells committee*, *TheJournal.ie* 20 January 2022 <https://www.thejournal.ie/licence-fee-rte-utterly-broken-dee-forbes-oireachtas-committee-5659707-Jan2022/>

80 National Union of Journalists, *Funding plan fails to address core issue, says NUJ*, 24 July 2024 <https://www.nuj.org.uk/resource/broadcasting-funding-plan-fails-to-address-core-issue-says-nuj.html>

Online media

Impact on media of online content regulation rules (including content removal obligations, liability rules)

Following its establishment,⁸¹ *Coimisiún na Meán* began developing a binding Online Safety Code for content regulation. The Online Safety Code for video sharing platforms was published in October 2024.⁸²

Public trust in media

According to research carried out by the Institute for Future Media Democracy and Society and *Coimisiún na Meán* those reporting a “strong agreement” or “tend to agree” with the statement “I think you can trust most news most of the time” declined slightly in 2024 46%

but remains relatively high. The most trusted news sources are RTÉ and *The Irish Times*.⁸³

Safety and protection of journalists and other media actors

Frequency of verbal and physical attacks

Reporters covering violent protests around sites earmarked for accommodation for people seeking international protection have been subject to threats,⁸⁴ as have journalists covering legal cases related to these protests.⁸⁵

Rules and practices guaranteeing journalist's independence and safety

A draft bill to amend defamation laws was published in 2023⁸⁶ but had not completed the legislative process when parliament was

81 Leigh Mc Gowran, *Irish regulator seeks public feedback for Online Safety Code*, Silicon Republic, 11 July 2023 <https://www.siliconrepublic.com/business/online-safety-code-ireland-comisiun-na-mean-cnam>

82 Coimisiún na Meán (Ireland), *Coimisiún na Meán adopts final Online Safety Code*, 21 October 2024 <https://www.cnam.ie/coimisiun-na-mean-adopts-final-online-safety-code/>

83 Colleen Murrell, Claire English, David Robbins, Dawn Wheatley, *Digital News Report Ireland 2024/Tuarascáil ar Nuacht Dhigiteach na hÉireann 2024*, Coimisiún na Meán & Dublin City University FuJo: The Institute for Future Media Democracy and Society <https://fujomedia.eu/publications/reuters-digital-news-report-2024/>

84 Róna Maguire, *'Horrid' Gardai probe threats made to journalist covering Coolock disturbances as attempts made to find home address & car*, The Irish Sun, 19 July 2024 Mapping Media Freedom, *RTÉ journalist Barry O'Kelly constantly prevented from filming protest against asylum seekers' plans*, 31 May 2024 <https://www.mapmf.org/explorer>

85 National Union of Journalists, *NUJ condemns vile abuse of reporter*, 19 July 2024 <https://www.nuj.org.uk/resource/nuj-condemns-vile-abuse-of-reporter.html>

86 Department of Justice (Ireland) *Draft General Scheme of the Defamation (Amendment) Bill*, 28 March 2023 <https://www.gov.ie/en/publication/e9604-draft-general-scheme-of-the-defamation-amendment-bill/>

dissolved in November 2024.⁸⁷ It is expected the bill will be re-tabled when the next government is formed in 2025.

Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists and media activists

2023 saw the establishment of a non-statutory body by *An Garda Síochána*, the Media Engagement Group, aimed at improving the safety of media workers. This is a joint initiative of the Gardaí, the NUJ, representatives of media organisations and state agencies. Chaired by an Assistant Commissioner, it meets quarterly, monitors attacks and threats, and provides training. The group has also established a reporting system for profession-related attacks against media workers. In 2023, 32 complaints were logged, of which six led to criminal investigations.⁸⁸

Lawsuits and prosecutions against journalists (including SLAPPs) and safeguards against abuse

The Defamation (Amendment) Bill 2024 is expected to address some forms of Strategic Lawsuits Against Public Participation (SLAPP) against journalists and others. Part 7 of the bill will transpose the EU's anti-SLAPP directive⁸⁹ but campaigners say that more robust protections are needed.⁹⁰ The Ireland Anti-SLAPP Network, a coalition of stakeholders including ICCL and Index on Censorship, has put forward three main recommendations to strengthen the bill. Firstly, the current test risks excluding some SLAPPs from the scope of the legislation. This is because Section 34A of the bill requires the main purpose of the claimant to be determined subjectively. The Ireland Anti-SLAPP Network has suggested changes to the language to add an objective test to the bill. Second, the Network has suggested the addition of a clause which would require the litigant to demonstrate that their

87 Department of Justice (Ireland), 67 of 2024, Defamation (Amendment) Bill (2024) <https://www.oireachtas.ie/en/bills/bill/2024/67/>

88 National Union of Journalists, *Don't let your blower make you a sucker*, 10 April 2024 <https://www.nuj.org.uk/resource/don-t-let-your-blower-make-you-a-sucker.html>

89 Directive (EU) 2024/1069 of the European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ('Strategic lawsuits against public participation') https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401069

90 Joint Committee on Justice (Ireland), *Opening Statement on behalf of the Ireland Anti-SLAPPs Network Ireland*, Pre-legislative hearings- Defamation (Amendment) Bill (2023), 4 July 2023 https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_justice/submissions/2023/2023-07-04_opening-statement-jessica-nimhainin-index-on-censorship-et-al-iccl-anti-slapps-network_en.pdf

case is not unfounded as part of an early dismissal mechanism. An example of this can be found in clause 2(2) of the UK Anti-SLAPP Coalition's Model Anti-SLAPP Law.⁹¹ Third and finally, the Ireland Anti-SLAPP Network has advised on the addition of a provision which would require the court to stay proceedings once an application has been made for the early dismissal of a SLAPP claim. This would allow the court to make a timely assessment as to whether a claim should be struck out and would prevent legal fees accruing.

Confidentiality and protection of journalistic sources (including whistleblower protection)

Head 16 of the General Scheme of the *Garda Síochána* (Powers) Bill⁹² provides for a general search warrant provision including access to electronic devices, as recommended by the

Law Reform Commission. As of December 2024, the revised version of the bill remains unpublished.

In March 2024, the *Gardaí* successfully sought court orders⁹³ to compel journalists to hand over photos of the November 2023 riot in Dublin city centre. Media agencies and the NUJ⁹⁴ expressed their objections but the *Gardaí* again sought them after further disturbances in July 2024.⁹⁵ In August 2024, *gardaí* attempted to seize footage from an RTÉ journalist ahead of its broadcast as part of a documentary.⁹⁶

Access to information and public documents

A review of Freedom of Information Act (2014), which was commenced by the Department of Public Expenditure and Reform in 2021 remains ongoing as of December 2024.

91 UK Anti-SLAPP Coalition: *Model Anti-SLAPP Law Advancing robust protection against SLAPPs within the parameters of the MOJ's proposed legislative framework*, May 2023 <https://antislapp.uk/wp-content/uploads/2023/05/Model-UK-Anti-SLAPP-Law-Final-Version.docx.pdf>

92 Department of Justice (Ireland), *Garda powers to be modernised and updated under new Bill from Minister Humphreys* Published 14 June 2021 <https://www.gov.ie/en/press-release/6ed9f-garda-powers-to-be-modernised-and-updated-under-new-bill-from-minister-humphreys/>

93 PA Reporter, *Concerns raised over Garda efforts to obtain media images of Dublin riots*, Irish Independent, 27 March 2024 <https://www.independent.ie/irish-news/concerns-raised-over-garda-efforts-to-obtain-media-images-of-dublin-riots/a887494887.html>

94 National Union of Journalists, *gardaí demand access to media far-right photos*, 7 March 2024

95 Emma Hickey, *NUJ hits out at gardaí for requesting press photos of Coolock violence*, *TheJournal.ie*, 26 July 2024 <https://www.thejournal.ie/nuj-images-garda-commissioner-coolock-6446873-Jul2024/>

96 Debbie McCann, *gardaí tried to seize RTÉ riot footage as detectives went to reporter's home* - *Extra.ie*, 22 September 2024 <https://extra.ie/2024/09/22/news/gardai-seize-rte-riot-footage>

A report on the initial stakeholder consultation was published in December 2022.⁹⁷ In the state contribution to the rule of law reporting process it was noted that the final review report would be presented to the government in 2024.⁹⁸ As of December 2024, it was unclear whether this had happened.⁹⁹

The Commission on the Future of Policing in Ireland recommended that there be a review

of *An Garda Síochána's* current status under the Freedom of Information Act 2014,¹⁰⁰ as the law currently only provides access to police records relating to human resources, finances, and procurement.¹⁰¹ Freedom of information requests submitted to the Department of Justice and the Department of An Taoiseach by ICCL have revealed no record of such a review taking place.¹⁰²

CHECKS AND BALANCES

Key recommendations

- *The Oireachtas should enhance the transparency of the decision-making process by making it a requirement that reasoning is given for the rejection of recommendations of pre-legislative reports.*
- *The Department of Housing, Local Government and Heritage should publish legislation to address electoral mis/information.*

97 Department of Public Expenditure, NDP Delivery and Reform (Ireland), Review of the Freedom of Information Act Progress Update, December 2022 <https://assets.gov.ie/242358/05191c81-a99c-4c6d-8d0d-776166bcd464.pdf>

98 Ireland, Member State Contribution European Commission Annual Rule of Law Report 2024 https://commission.europa.eu/document/download/0123a8f4-05e6-4021-8240-ae39a5d1fb65_en?filename=76_1_58157_input_mem_ireland_en.pdf

99 Dáil Éireann Debate Monday 9 September 2024: Freedom of Information-Parliamentary question Ged Nash TD https://www.oireachtas.ie/en/debates/question/2024-09-09/446/#spk_372

100 The Commission on the Future of Policing in Ireland, *Final Report*, 18 September 2018 <https://policereform.ie/en/polref/pages/pb18000006>

101 Houses of the Oireachtas, No. 30 of 2014, Freedom of Information Act (2014) <https://www.irishstatutebook.ie/eli/2014/act/30/enacted/en/html>

102 Emily Williams, *Human Rights in Irish Policing: Analysing the Implementation of the Recommendations from the Commission on the Future of Policing in Ireland*, ICCL, May 2024 <https://www.iccl.ie/wp-content/uploads/2024/05/CoFPI-report-WEB.pdf>

- *The Department of Housing, Local Government and Heritage should expand the Seanad franchise to mirror that of Dáil elections.*

Process for preparing and enacting laws

While the practice of pre-legislative scrutiny of legislation has now become embedded into the parliamentary system, the recommendations produced are often ignored without explanation by the responsible department when re-drafting the final versions of legislation.¹⁰³

Independent authorities

The Policing, Security and Community Safety Act 2024 commenced on 16 December 2024 and created a new oversight structure for *An Garda Síochána*. Since the drafting of the act, ICCL has consistently raised issues regarding the new offices of the Independent Examiner of Security Legislation, the Policing and Community Safety Authority and the Office of the

Police Ombudsman.¹⁰⁴ Concerns include the proposed governance and structures of these bodies which may limit their independence and impede their ability to operate effectively. For example, the Independent Examiner of Security Legislation does not have unfettered access to the information it needs to perform its role.¹⁰⁵ The Office of the Police Ombudsman has restrictions on its independence that are not found in other national Ombudsman institutions, such as the Ombudsman for Children and the Office of the Ombudsman.¹⁰⁶

SIPO's existing governance is weak and 'standards of conduct for public officials, both elected and appointed, is devoid of any mechanism to address racism and discrimination where it is perpetuated online, in person and in electioneering, with numerous examples of offence caused to Travellers over many decades.¹⁰⁷ The

103 Govt's plan for industrial school survivors 'ignores every recommendation' made by committee- [TheJournal.ie May 2024](https://www.thejournal.ie/may-2024)

104 Patrice McDonnell, *Policing, Security and Community Safety Bill 2023: Community Safety* Oireachtas Library and Research Service: Bills Digest, 20 February 2023 https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2023/2023-04-11_l-rs-note-policing-security-and-community-safety-bill-2023-community-safety_en.pdf

105 Emily Williams, *Human Rights in Irish Policing: Analysing the Implementation of the Recommendations from the Commission on the Future of Policing in Ireland*, ICCL, May 2024 p.29 <https://www.iccl.ie/wp-content/uploads/2024/05/CoFPI-report-WEB.pdf>

106 Emily Williams, *Human Rights in Irish Policing: Analysing the Implementation of the Recommendations from the Commission on the Future of Policing in Ireland*, ICCL, May 2024 p.11 <https://www.iccl.ie/wp-content/uploads/2024/05/CoFPI-report-WEB.pdf>

107 Irish Traveller Movement: *Submission to the Task Force on Safe Participation in Political Life* 15 May 2024 https://data.oireachtas.ie/ie/oireachtas/parliamentaryBusiness/other/2024-05-15_submission-irish-traveller-movement-itm_en.pdf

key underpinning legislation, the Ethics Acts, focus on anti-corruption and compliance under finance rules, elections and conflicts of interest, with little content on matters related to conduct in public office, values – such as equality and anti-discrimination – while in or running for office, and public discourse. A review of the current complaints procedure, which is onerous for users, is also needed.

IHREC is still without enforcement powers to underpin the Public Sector Equality and Human Rights Duty – the statutory obligation for public bodies (Section 42 of the Irish Human Rights and Equality Commission Act 2014)¹⁰⁸ “to have regard to the need to eliminate discrimination, promote equality and protect human rights of staff and people availing of their services”. The absence of enforceability undermines the role of the national human rights institution as a watchdog of human rights breaches by public bodies as duty bearers as its powers are limited to ‘inviting’ the body to address relevant issues.¹⁰⁹

The Office of the Inspector of Prisons,¹¹⁰ established by the Prisons Act (2007), conducts regular prison inspections and unannounced visits but currently does not have the power to publish its own reports. All reports have to be submitted to the Minister for Justice for approval and under section 31(4) of the Prisons Act,¹¹¹ the Minister has powers to redact all, or part of any report submitted to them.

The proposed legislation to allow the State to ratify the Optional Protocol to the Convention Against Torture (OPCAT) (the Inspection of Places of Detention Bill)¹¹² would allow the new Inspectorate to present reports to the Houses of the *Oireachtas*, free of ministerial control. Under this legislation, IHREC will become the National Preventative Mechanism coordinator once OPCAT is ratified. This is particularly important from a transparency and accountability perspective as in January 2024, a redacted version of the inspection report¹¹³ of the *Dóchas Centre*, the women’s prison in Dublin, conducted by the Office of the Inspector of Prisons in 2020 during the COVID-19

108 Houses of the Oireachtas, No. 25 of 2014, Irish Human Rights and Equality Commission Act (2014) <https://www.irishstatutebook.ie/eli/2014/act/25/enacted/en/print>

109 Irish Human Rights and Equality Commission, *Public Sector Equality and Human Rights Duty – FAQ* Accessed 17 January 2025 <https://www.ihrec.ie/our-work/public-sector-equality-and-human-rights-duty-faq/>

110 Office of the Inspector of Prisons, Accessed 17 January 2025 <https://www.oip.ie/>

111 Houses of the Oireachtas, No.10 of 2007, Prisons Act (2007) <https://www.irishstatutebook.ie/eli/2007/act/10/enacted/en/print>

112 Department of Justice (Ireland) Draft General Scheme Inspection of Places of Detention Bill June 2022 <https://assets.gov.ie/228123/94b395af-c07c-4233-969f-ae838db02569.pdf>

113 Office of the Inspector of Prisons, *Inspection Report Oversight Monitoring Visit During Covid-19 Pandemic Mountjoy Female Prison (Dóchas Centre) (Redacted Version)* 5 August 2020 <https://www.gov.ie/pdf/?file=https://assets.gov.ie/281788/66945768-5c5a-4f99-a875-b65a8d6074b5.pdf#page=null>

pandemic, was published after being withheld for a number of years, on the basis of advice from the Attorney General.¹¹⁴ The findings in the initial report led to the Minister requesting a further investigation report and a supplementary report, both of which were submitted to the Minister in 2022. Both have been withheld to date following legal advice from the Attorney General.¹¹⁵

Electoral framework

Limitations on the right to vote

Members of the upper chamber of parliament (the *Seanad*) are not elected through universal suffrage.¹¹⁶ Forty-nine of the *Seanad*'s 60 members are elected through closed lists and 11 are nominated by the *Taoiseach* (Prime Minister). 43 senators are elected from panels

of candidates representing specific vocational interests. The remaining 6 members are elected by university graduates of certain universities. Every citizen of Ireland who is at least 18 years old and who has been awarded a degree, other than an honorary degree, from the university concerned is entitled to be registered as an elector. The electorate of the National University of Ireland numbers 110,000 approximately and that of the University of Dublin 50,000 approximately.¹¹⁷ The electoral roll is maintained and updated by the university concerned. Even within this limited pool of eligible electors, registration and turnout is very low.¹¹⁸ The exclusion of those with degrees from other third level institutions was ruled to be unconstitutional in 2023¹¹⁹ and the government has announced plans to extend the franchise by 2025.¹²⁰ The recently passed *Seanad Electoral (University Members)*

114 Irish Penal Reform Trust (IPRT), *IPRT welcomes the publication of withheld Dóchas Prison Inspection Report* 26 January 2024 <https://www.iprt.ie/latest-news/iprt-welcomes-the-publication-of-withheld-dochas-prison-inspection-report/>

115 Dáil Éireann Debate Thursday 1 February 2024: Prison Service-Parliamentary question Patrick Costello TD <https://www.oireachtas.ie/en/debates/question/2024-02-01/314/>

116 Citizens Information (Ireland): *The Seanad* January 17 2025 <https://www.citizensinformation.ie/en/government-in-ireland/houses-of-the-oireachtas/the-seanad/>

117 Houses of the Oireachtas: *How the Seanad is Elected (Upper House of Parliament)* Accessed 17 January 2025 <https://assets.gov.ie/130328/7319b9fa-9e70-4874-b58d-004918685654.pdf>

118 John Coakley, *The Final Seanad Election?* p. 240–263 *How Ireland Voted 2011, 2011* https://www.nui.ie/elections/referendum/docs/ck1y_arCl3.pdf

119 Free Legal Advice Centres (FLAC), *Laws limiting electorate for Seanad University Panels are unconstitutional; Oireachtas must legislate to expand franchise* FLAC 31 March 2023 <https://www.flac.ie/news/2023/03/31/landmark-supreme-court-judgment-laws-limiting-elec/>

120 Katie O'Donovan, *Expanding Seanad franchise must be done by 2025 following case by UL graduate*, Limerick Post, 7 August 2023 <https://www.flac.ie/news/2023/03/31/landmark-supreme-court-judgment-laws-limiting-elec/>

(Amendment) Act 2024¹²¹ will address this anomaly by extending the franchise to all Irish citizens who hold a degree from a designated institution of higher education in Ireland, but will still exclude those from other institutions or who do not have a third level education from voting to elect these senators.

Enabling environment for the exercise of the right to vote voter registration systems, accessibility of polling stations, remote/e-voting arrangements, threats and intimidation

An Coimisiún Toghcháin (The Electoral Commission) has published its research programme for 2024-2026 which sets out the priorities for the period. This includes research on electronic voting, advance voting and other enabling enhancements.¹²²

Rules on political advertising and their enforcement

An Coimisiún Toghcháin is in theory responsible for the enforcement of Part IV of the Electoral Act (2024) with respect to online

political advertising. This section of the act remains uncommented however as it is incompatible with the EU e-Commerce directive. In November 2024, *Coimisiún na Meán* removed the existing moratorium on election coverage in the 24 hours before polling stations open. This moratorium had been in place since 1997. Instead, broadcasters are required to adhere to an “additional care requirement” when reporting on matters which could impact the electoral event.¹²³

Eligibility criteria and restrictions to be a candidate

The need for ethnic minority representation in political decision-making has been recognised by the UN’s Committee on the Elimination of Racial Discrimination multiple times, most recently in 2019, when it called for the “State party (to) take effective measures, including special measures, to improve the representation of ethnic minority groups in political and public life”.¹²⁴ Travellers encounter many obstacles to contesting elections such as countering anti-Traveller racism and overcoming bias to nominations by political parties and

121 Houses of the Oireachtas, No. 40 of 2024, Seanad Electoral (University Members) (Amendment) Act 2024 <https://www.oireachtas.ie/en/bills/bill/2024/74/>

122 An Coimisiún Toghcháin, The Electoral Commission Research Programme 2024-2026 July 2024 https://cdn.electoralcommission.ie/app/uploads/2024/07/08123719/EC_RESEARCH_PROGRAMME_ENG_ACCESSIBLE.pdf

123 Coimisiún na Meán, *Coimisiún na Meán removes traditional broadcast moratorium for election coverage*, 1 November 2024 <https://www.cnam.ie/coimisiun-na-mean-removes-traditional-broadcast-moratorium-for-election-coverage/>

124 United Nations (UN) Committee on the Elimination of Racial Discrimination, Concluding observations on the combined fifth to ninth reports of Ireland 12 December 2019 <https://inar.ie/wp-content/uploads/2019/12/CERD-2019-Concluding-remarks.pdf>

groups. The system which determines election to the *Seanad* also disadvantages Travellers and other minority groups as candidates must be endorsed by a political representative or designated bodies and universities. Reforms, as included a minority panel and a Report of a Parliamentary Forum,¹²⁵ have not been advanced, and *an Coimisiún Toghcháin* does not currently have designated function for the *Seanad*.

Irregularities, fraud and related safeguards, including independence and effectiveness of electoral bodies

An Coimisiún Toghcháin is independent of the government. Its budget is included in the expenditure envelope of the Department of Housing and Local Government. The budget allocation for 2025 remains the same as in 2024 at €12m.¹²⁶ Additional funding has been

provided to SIPO for 2025 to commence a digitalisation process for spending returns.¹²⁷

Access to balanced and reliable information online and offline during electoral campaign: campaigning, media coverage, disinformation and misinformation

In January 2021, the government published the general scheme of the Electoral Reform Bill (2020).¹²⁸ The draft Bill went through an extensive period of pre-legislative scrutiny ending in July 2021. As part of the pre-legislative scrutiny process, a number of academics and members of civil society called on the government to equip *an Coimisiún Toghcháin* with powers to address and counter dis/misinformation.¹²⁹ While the subsequent committee report recommended that “the proposed Bill provides for the maintenance of electoral integrity and the protection against election interference as an explicit function of *an Coimisiún Toghcháin*”,¹³⁰

125 Houses of the Oireachtas, *Forum on a Family Friendly and Inclusive Parliament Report as presented to the Ceann Comhairle, Mr Seán Ó Fearghail TD*, 2 November 2021 https://data.oireachtas.ie/ie/oireachtas/parliamentaryBusiness/other/2021-11-02_report-of-the-forum-on-a-family-friendly-and-inclusive-parliament_en.pdf

126 [Whereyourmoneygoes.ie](https://whereyourmoneygoes.ie/): Housing Expenditure 2025, Accessed 20 January 2025 <https://whereyourmoneygoes.gov.ie/en/housing/2025/>

127 Government of Ireland (Prepared by the Department of Public Expenditure, NDP Delivery and Reform)-*Budget Expenditure Report*, 1 October 2024 <https://www.gov.ie/en/publication/3ab46-budget-2025-expenditure-reports/>

128 Department of Housing, Local Government and Heritage (Ireland), *General Scheme of the Electoral Reform Bill (2020)* 8 January 2021 <https://www.gov.ie/en/publication/34cf6-general-scheme-of-the-electoral-reform-bill-2020/>

129 Joint Committee on Housing, Local Government and Heritage(Ireland) *General Scheme of Electoral Reform Bill (2020): Discussion (Resumed)*, 2 Feb 2021 https://www.oireachtas.ie/en/debates/debate/joint_committee_on_housing_local_government_and_heritage/2021-02-02/2/

130 Joint Committee on Housing, Local Government & Heritage (Ireland) *Report on Pre-Legislative Scrutiny of the General Scheme of the Electoral Reform Bill (2020)*, 4 August 2021 https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_housing_local_government_and_heritage/reports/2021/2021-08-19_report-on-pre-legislative-scrutiny-of-the-general-scheme-of-the-electoral-reform-bill-2020_en.pdf

the revised bill contained no reference to mis/disinformation until an entirely new section was added as an amendment by the Minister late in the legislative process.¹³¹ These last-minute additions were subject to infringement procedures by the European Commission as they were deemed to be incompatible with EU law.¹³² The rushed and unsatisfactory manner in which the legislation was passed was also subject to public commentary¹³³ and objections from parliamentarians.¹³⁴ The infringement procedures mean that while the act has been passed, sections addressing mis/disinformation and political advertising have yet to be.¹³⁵ As of December 2024 no proposals have been brought forward to address the incompatibility of the act with EU law.¹³⁶

Free and open civic discourse online and offline during electoral campaign

Coimisiún na Meán's Guidelines in Respect of Broadcast Coverage of Elections and Code of Fairness, Objectivity and Impartiality¹³⁷ in News and Current Affairs were published in November 2024.¹³⁸ These replace guidelines from the Broadcasting Authority of Ireland as *Coimisiún na Meán* has taken on their regulatory functions.

Other

The Electoral Commission published two post electoral event reviews (PEERs) in 2024. One on the March 8th “family and care” referenda¹³⁹ and one on the June 7th Local and European

131 Daniel McConnell, *Government's Electoral Reform Bill 'incompatible' with EU directives on online advertising*, Irish Examiner 21 July 2022, <https://www.irishexaminer.com/news/politics/arid-40922930.html>

132 Department of Housing, Local Government and Heritage (Ireland) Statement on the Electoral Reform Bill, 22 July 2022 <https://www.gov.ie/en/press-release/44555-statement-on-the-electoral-reform-bill/>

133 Liam Herrick, *Approach to Electoral Reform Bill raises serious questions over Government's respect for rule of law*, Irish Examiner, 1 August 2022, <https://www.irishexaminer.com/opinion/commentanalysis/arid-40927832.html>

134 Dáil Éireann debate -Electoral Reform Bill (2022) Amendments from the Seanad 13 Jul 2022 <https://www.oireachtas.ie/en/debates/debate/dail/2022-07-13/16/>

135 An Coimisiún Toghcháin (Ireland) Electoral Integrity Regulation of Online Electoral Information Accessed 20 January 2025 <https://www.electoralcommission.ie/electoral-integrity/>

136 *Electoral Commission to be empowered to counter online misinformation under draft law to be considered by Cabinet* Irish Times June 2024

137 Broadcasting Authority of Ireland-Code of Fairness, Objectivity & Impartiality in News and Current Affairs August 2024 https://www.cnam.ie/app/uploads/2025/01/20130408_BAICOFOI_OnlineVer_bf.pdf

138 Coimisiún na Meán (Ireland) *Read our updated guidelines for broadcast coverage of elections-* 11 November 2024 <https://www.cnam.ie/coimisiun-na-mean-publishes-updated-guidelines-for-broadcast-coverage-of-elections-2/>

139 An Coimisiún Toghcháin (Ireland) *Post Electoral Event Review, Family and Care Referendums | 8 March 2024*, 9 September 2024 <https://cdn.electoralcommission.ie/app/uploads/2024/09/03150406/Post-Electoral-Event-Review.pdf>

Elections.¹⁴⁰ These reviews are complimented with the National Election and Democracy Study (NEDS) which carries out wider scale surveys on attitudes to democracy.¹⁴¹ These reviews show that while there are some issues with respect to the accessibility of polling stations and ballot papers, trust in the electoral system is consistently high across parties and demographics. For example, 94% of

respondents in the European Election NEDS agreed with the statement “I was confident that I understood the ballot papers and how to cast my vote” and 86% agreed with the statement “I am confident my ballot papers are secret once I have put them in the ballot box.”¹⁴² Reports on the November 29th General Election are yet to be published.

CIVIC SPACE

Key recommendations

- *The Department of Housing, Local Government and Heritage should amend the Electoral Act (1997) to remove funding restrictions placed on civil society.*
- *The Department of Rural and Community Development and state funders should address and remove threats to public funding for NGOs that criticise government policy.*
- *The Charities Regulator should remove the excessive restrictions placed on charities seeking to advance their work through political advocacy*

140 An Coimisiún Toghcháin (Ireland) Post Electoral Event Review, *European Parliament, Local and Limerick Mayoral Elections 7 June 2024*, 6 December 2024 https://cdn.electoralcommission.ie/app/uploads/2024/12/06153929/Post-Electoral-Event-Review_7-June_English_Tagged.pdf

141 An Coimisiún Toghcháin (Ireland) & RedC, *Post Local & European Elections Study – Data Report 2024* 31 July 2024 <https://neds.ie/reports/NEDS-2024-local-european-elections-report.pdf>

142 An Coimisiún Toghcháin (Ireland) & RedC, *Post Local & European Elections Study – Data Report 2024* 31 July 2024 <https://neds.ie/reports/NEDS-2024-local-european-elections-report.pdf>

Freedom of association

Formation, establishment and registration of associations, including rules on membership

Most NGOs/CSOs are given legal form through company law.¹⁴³ If they meet the “charity test” they are obliged to register as such. It should be noted that in 2021 roughly 50% of NGOs/CSOs were not charities.¹⁴⁴ The state’s submission to the 2024 rule of law reporting cycle only addresses the regulatory requirements of registered charities¹⁴⁵ which does not offer a comprehensive overview of the regulatory environment.

Involuntary dissolution

Concerns were expressed by charities regarding new powers which would have been granted to the Charities Regulator in the draft bill to amend charities legislation.¹⁴⁶ These powers would have significantly lowered the threshold for “deregistration” of charities. While the act¹⁴⁷ was amended to increase the threshold¹⁴⁸ as it progressed through the legislative process, concerns still remain regarding the enhanced need to inform the Regulator on amendments to charities’ constitutions.

Freedom to determine objectives and activities, including the scope of operations

Concerns remain that the Charities Regulator has gone beyond its remit in determining what work can be considered “a charitable purpose” and/or “political” in nature¹⁴⁹ as per the definition of “excluded bodies” as contained in

143 Council on Foundations *Nonprofit Law in Ireland, Country Notes* February 2021 <https://cof.org/country-notes/nonprofit-law-ireland>

144 Benefacts (Ireland), *Nonprofit Sector Analysis- 2021*, 24 June 2021 <https://benefactslegacy.ie/wp-content/uploads/2022/03/benefacts-nonprofit-sector-analysis-2021.pdf>

145 Ireland, Member State Contribution European Commission Annual Rule of Law Report 2024 https://commission.europa.eu/document/download/0123a8f4-05e6-4021-8240-ae39a5d1fb65_en?filename=76_1_58157_input_mem_ireland_en.pdf

146 Department of Rural and Community Development (Ireland), General Scheme Charities Amendment Bill (2022), 29 April 2022 <https://assets.gov.ie/222446/0c2c7a9d-5cd6-4fb9-99da-28d4d286cb3b.pdf>

147 Houses of the Oireachtas, No. 21 of 2024, Charities (Amendment) Act (2024) <https://www.oireachtas.ie/en/bills/bill/2023/98/>

148 Mayson, Hayes & Curran, *The Charities (Amendment) Act (2024) Has Been Enacted-* 11 July 2024 <https://www.mhc.ie/latest/insights/the-charities-amendment-act-2024-has-been-enacted#:~:text=Deregistration%20of%20charities,and%20employees%20of%20that%20charity.>

149 Unpublished ICCL research.

Part 1 Section 2 of the Charities Act (2009).¹⁵⁰ The Regulator published updated advice on “political activity” in late 2021 which further narrowed the permitted scope of activities of charities.¹⁵¹ In its pre-legislative scrutiny report on the Charities (Amendment) Bill (2022), the parliamentary committee examining the legislation requested that this advice be amended.¹⁵² It is hoped that this matter can be addressed as part of the development of forthcoming guidelines that will allow for the commencement of the amended Section 3(a) “the advancement of human rights” be considered a charitable purpose.¹⁵³

Financing framework for CSOs, including availability of and access to public funding, rules on fundraising, rules on foreign funding, tax regulations

In 2024 ICCL published a significant report¹⁵⁴ on the impact of the acceptance of state funding on NGOs. The report found that 37% of all respondents had limited or otherwise self-censored themselves for fear of the impact that advocacy on certain issues or themes could have on their funding. This rises to 50% of respondents when organisations working on homelessness and addiction are isolated. The restrictions are both explicit (as part of contracts) and communicated informally. Survey respondents reported being told by civil servants that the restrictions are effectively a ‘trade off’ for the acceptance of state funding.

150 Houses of the Oireachtas, No. 6 of 2009, Charities Act (2009) <https://www.irishstatutebook.ie/eli/2009/act/6/enacted/en/print.html>

151 Charities Regulator (Ireland), *Guidance on Charities and the Promotion of Political Causes*- January 2021 <https://www.charitiesregulator.ie/media/inkn3uy5/guidance-on-charities-and-the-promotion-of-political-causes.pdf>

152 Joint Committee on Social Protection, Community and Rural Development and the Islands (Ireland), *Report on the Pre-Legislative scrutiny of the General Scheme of the Charities (Amendment) Bill, (2022)* 9 September 2022 https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_social_protection_community_and_rural_development_and_the_islands/reports/2022/2022-11-14_report-on-pre-legislative-scrutiny-of-the-general-scheme-of-the-charities-amendment-bill-2022_en.pdf

153 Charities Regulator (Ireland), Charities (Amendment) Act (2024)- Public Notice 12 July 2024 <https://www.charitiesregulator.ie/en/information-for-the-public/press-releases-and-public-notice/2024/july/charities-amendment-act-2024#:~:text=The%20Act%20includes%20a%20series,and%20defining%20charity%20trustee%20duties.>

154 Irish Council for Civil Liberties (ICCL) *Community and voluntary organisations afraid to criticise the State for fear of financial implications*, 1 May 2024 <https://www.iccl.ie/news/thats-not-your-role/#:~:text=The%20report%2C%20titled%20%22That's%20Not, stakeholder%20engagements%20for%20policy%20formation.>

Access to justice, including rules on legal standing, capacity to represent collective interest at court, and access to legal aid

The State has transposed the Collective Redress Directive (Directive (EU) 2020/1828) in a way that precludes bodies representing collective interests from taking legal proceedings. The transposing legislation, The Representative Actions for the Protection of the Collective Interests of Consumers Act (2023),¹⁵⁵ includes a fatal contradiction: it establishes the right of qualified (non-profit) entities to bring collective redress litigation in Ireland, but it also preserves the prohibition (maintenance and champerty) against their raising funds to do so. Ireland therefore appears to be in breach of the directive and the right to litigate under the directive is abrogated.

The long-awaited review of the legal aid scheme has not progressed in a substantive manner.¹⁵⁶

Impact of rules on foreign funding, accounting and auditing rules, anti-money laundering regulations

The definition of “political purposes” as contained in the Electoral Act (1997) prohibits any person or organisation based in Ireland from accepting sizable domestic or any international donations to assist them in campaigning or seeking to change public policy. The act also places onerous tracking and reporting requirements on small domestic donations.

According to the wording of the Electoral Act, these donation restrictions apply to civil society advocacy work at all times, not just when engaging in advocacy in an election or referendum. The basic freedom of individuals and organisations in Ireland to raise funds and campaign on issues that affect them is constrained by the Electoral Act in ways that violate their constitutional rights, EU law and freedom of assembly and association.¹⁵⁷ This situation has a considerable chilling impact on funders who fear that donations may breach electoral law.¹⁵⁸ The government has committed to reviewing the act and this task has fallen to *An Coimisiún Toghcháin* to complete. There is no public information on the status of this

155 Houses of the Oireachtas, No. 22 of 2023, Representative Actions for the Protection of the Collective Interests of Consumers Act (2023) <https://www.irishstatutebook.ie/eli/2023/act/22/enacted/en/html#:~:text=An%20Act%20to%20give%20effect,to%20provide%20for%20related%20matters.>

156 Dáil Éireann Debate Thursday 8 October 2024: Legal Aid-Parliamentary question Pa Daly TD <https://www.oireachtas.ie/en/debates/question/2024-10-08/351/>

157 Coalition for Civil Society Freedom, *Submission on the Definition of “Political Purposes” as included in the Electoral Reform Bill (2022)*, 18 May 2022 <https://www.iccl.ie/wp-content/uploads/2022/08/Coalition-for-Civil-Society-Freedom-Submission-on-the-Electoral-Refrom-Bill-2022.pdf>

158 Coalition For Civil Society Freedom, *Statement on the Electoral Act* December 2018 <https://www.iccl.ie/wp-content/uploads/2018/12/COALITION-STATEMENT-ELECTORAL-ACT.pdf>

review, which was due to commence in 2024 as per strand B of *An Coimisiún Toghcháin's* research plan.¹⁵⁹

Rules on lobbying

CSOs are bound by the same lobbying rules as private enterprises as set out in the Regulation of Lobbying Act (2015).¹⁶⁰

Rules on political campaigning

The rules around political campaigning for CSOs are complex and tied to charitable status and funding sources. As set out above, organisations using donations to fund advocacy work are subject to strict rules regarding permitted sources, amounts and accounting. Charities can engage in political campaigning, but it must be a secondary activity in furtherance of their primary charitable purpose and not be their “primary” activity.¹⁶¹ The use of state

funding for political campaigning in referenda is banned as a result of the 1996 McKenna Judgement.¹⁶² NGOs and CSOs wishing to campaign in an electoral event must register as a “third party” and disclose their spending and funding sources.¹⁶³ The rules on campaigning are complex and have led to confusion, most recently in the March 2024 referenda where a number of civil society organisations wrote to the Department of Rural and Community Affairs requesting clarification on advice which seemed to imply that organisations in receipt of state funding should not campaign for a particular outcome and rather focus on providing objective information.¹⁶⁴ Following the referenda, SIPO clarified that it had “no role” to examine the spending of state-funded groups or organisations.¹⁶⁵

159 An Coimisiún Toghcháin, *The Electoral Commission Research Programme 2024-2026*, July 2024 https://cdn.electoralcommission.ie/app/uploads/2024/07/08123719/EC_RESEARCH_PROGRAMME_ENG_ACCESSIBLE.pdf

160 [Lobbying.ie](https://www.lobbying.ie), *Summary of the main provisions of the 2015 Regulation of Lobbying Act*, Accessed 20 January 2025 <https://www.lobbying.ie/help-resources/information-for-lobbyists/quick-guide-to-the-act/>

161 Charities Regulator (Ireland), *Guidance on Charities and the Promotion of Political Causes*- January 2021 <https://www.charitiesregulator.ie/media/inkn3uy5/guidance-on-charities-and-the-promotion-of-political-causes.pdf>

162 Supreme Court (Ireland) Judgement of January 1, 1996, *McKenna v an Taoiseach (No. 2)* <https://ie.vlex.com/vid/mckenna-v-an-taoiseach-802330637>

163 SIPO (Ireland), *Information for third parties*, 2 November 2023 <https://sipo.ie/en/publication/95157-information-for-third-parties/>

164 Jennifer Bray, *Groups getting public funding warned it would be 'preferable' to avoid giving referendums information*-Irish Times 6 March 2024 <https://www.irishtimes.com/politics/2024/03/06/government-says-organisations-with-public-funding-would-best-avoid-publishing-information-about-referendums/>

165 Arthur Beesley, *Ethics watchdog had 'no role' to query State-funded NGO referendum spending*, Irish Times March 2024 <https://www.irishtimes.com/politics/2024/03/14/public-ethics-watchdog-had-no-role-in-examining-ngo-referendum-spending/>

Freedom of peaceful assembly

Rules on organisation, authorisation of and participation to assemblies

There have been increasing restrictions on protest outside the *Oireachtas*. While Irish law permits protests to be banned within a half mile when the *Oireachtas* is sitting, ICCL has raised concerns that this power is being exercised in an overly broad and disproportionate manner, including through the erection of physical barriers and street closures.¹⁶⁶

Bans on the use of symbols/slogans in protests

In November 2024, Justice Minister Helen McEntee had requested new laws governing the wearing of face masks at protests. These laws were not enacted prior to the election but two political parties (*Fiánna Fail* and *Fine Gael*) included proposals to regulate the

wearing of face masks at protests (including a ban on masks at protests and giving the *Gardaí* powers to remove face masks at protests) in their general election manifestos.¹⁶⁷ ICCL believes that laws governing the wearing of face masks at protests are unnecessary and a disproportionate interference with the right to peaceful protest under the constitution and human rights law. There are many reasons why an individual may wish to cover their face at a protest (e.g., for protection of health, to protect privacy, as a form of expression) and wearing a face covering is neither inherently criminal, nor does it suggest an intent to engage in criminality or violence. Furthermore, existing criminal law is sufficient to address a wide range of criminal acts at protests.¹⁶⁸

Policing practices, including dispersion of protests, use of force

ICCL published a report in September 2024 exploring differential *Garda* responses to

166 Conor Gallagher, *Gardaí prepare 'mini sterile zone' around Leinster House for budget day*, Irish Times, 10 October 2023 <https://www.irishtimes.com/crime-law/2023/10/10/gardai-prepare-mini-sterile-zone-around-leinster-house-for-budget-day/>

167 Fianna Fáil, *Election Manifesto 2024* November 2024 https://7358484.fs1.hubspotusercontent-na1.net/hubfs/7358484/FF%20Manifesto%202024_V4_Screen%5B45%5D.pdf Fine Gael, *Election Manifesto 2024*, November 2024 <https://www.finegael.ie/app/uploads/2024/11/Fine-Gael-General-Election-2024-Manifesto.pdf>

168 Houses of the Oireachtas, No. 2 of 1994 Criminal Justice (Public Order) Act, (1994), s. 6. <https://www.irishstatutebook.ie/eli/1994/act/2/enacted/en/html>

protest.¹⁶⁹ Following protests¹⁷⁰ and riots¹⁷¹ in Dublin in September and November 2023, the government sought to enhance the equipment available to *gardai*.¹⁷² There were also calls for greater clarity on the levels of acceptable force¹⁷³ which could be used to restore order. Since the riots in November 2023, *An Garda Síochána* has spent over €3 million to provide increased equipment to the Public Order Unit, including body armour, riot shields, batons and incapacitant spray.¹⁷⁴ The Policing Authority also approved *An Garda Síochána*'s purchase

of two water cannons to use in serious public order events.¹⁷⁵

The Minister for Justice requested that the Policing Authority, one of Ireland's police oversight bodies, should examine the *Garda* response to the riots. This report has yet to be published.¹⁷⁶ A concerning narrative regarding "excessive" oversight of policing has appeared in some reporting.¹⁷⁷ ICCL has consistently sought to oppose this narrative and promote the need for transparent and accountable

169 ICCL& CAJ, *Seminar Discussion Summary the Policing of Protest: A Shifting Landscape?* 14 March 2024 <https://www.iccl.ie/wp-content/uploads/2024/09/Policing-for-Peace-Dublin-protest-report-WEB.pdf>

170 Stephen McDermott, *Far-right posts featuring mock gallows outside Dáil remain online despite Garda investigations* *TheJournal.ie*, 28 September 2023 <https://www.thejournal.ie/irish-social-media-posts-dail-protests-mock-gallows-6181353-Sep2023/>

171 Mark Coughlan & Kate McDonald, *'Unfolding chaos': Watch how Dublin's riots developed*, RTÉ, 3 May 2024 <https://www.rte.ie/news/primetime/2023/1207/1420746-how-dublins-riots-developed/>

172 News Desk, *Irish riot police to be armed with Tasers* *BBC* 29 November 2023 <https://www.bbc.com/news/articles/czq27dn9d55o>

173 Paul Reynolds, *GSOC rejects claim it may have role hindering policing*, RTÉ, 28 November 2023

174 Gordon Deegan, *Gardaí to spend estimated €12m on body armour for Public Order Unit*, *Breakingnews.ie*, 9 September 2024 <https://www.breakingnews.ie/ireland/gardai-to-spend-estimated-e12m-on-body-armour-for-public-order-unit-1668551.html#:~:text=An%20Garda%20S%C3%ADoch%C3%A1na%20is%20set,as%20attacks%20with%20flammable%20materials.>

175 Tessa Ndjonkou, *Policing Authority approve two anti-riot water cannons for Gardaí in aftermath of Dublin city and Coolock unrest*, *Irish Independent*, 26 September 2024 <https://www.independent.ie/irish-news/policing-authority-approve-two-anti-riot-water-cannons-for-gardai-in-aftermath-of-dublin-city-and-coolock-unrest/a64962959.html>

176 Maeve Sheehan, *Justice Minister Helen McEntee urged to publish policing review of Dublin riots*, *Irish Independent*, 23 November 2024 <https://www.independent.ie/irish-news/justice-minister-helen-mcentee-urged-to-publish-policing-review-of-dublin-riots/a264170016.html?errorCode=0>

177 Olivie Kelleher, *Gardaí 'reluctant' to use powers in case of GSOC investigation*, *Irish Examiner*, 3 December 2023 <https://www.irishexaminer.com/news/arid-41282452.html>

oversight bodies, as historically Ireland has had weak policing oversight.¹⁷⁸

Criminalisation of protesters

Protestors arrested under the Public Order Act (1994) and released on bail have been subjected to restrictive bail conditions, including not being permitted to attend protests.¹⁷⁹

Surveillance of protests

Following the riots in Dublin in November 2023, calls were made to expedite the roll-out of facial recognition technology (FRT) for Irish policing.¹⁸⁰ Previous plans to legislate on the use of live and retrospective FRT via a last-minute amendment to a bill were halted in 2023 when the Minister for Justice announced

that a separate standalone FRT bill would be introduced and that plans to introduce live FRT would be abandoned.¹⁸¹ ICCL has opposed the use of this dangerous and discriminatory technology in Ireland, either live or retrospective.¹⁸² In December 2023¹⁸³ the Department of Justice published a draft bill for police use of FRT. In January 2024, ICCL and a range of other civil society organisations and academic experts briefed a parliamentary committee (the Justice Committee) about the technology and raised significant concerns about the draft bill. The committee subsequently published a report based on these hearings outlining serious deficiencies with the draft bill.¹⁸⁴ As of December 2024, the revised bill remains unpublished.

178 Liam Herrick, *Dublin riots must not be an excuse to magic away legal and human rights*, Irish Times, 29 November 2023 <https://www.irishtimes.com/opinion/2023/11/29/liam-herrick-dublin-riots-must-not-be-an-excuse-to-magic-away-legal-and-human-rights/>

179 Paul Reynolds, *Man charged with assaulting two gardai during Dublin riots*, RTÉ 6 December 2024 <https://www.rte.ie/news/courts/2024/1205/1484945-dublin-riots-court/>

180 Niall O'Connor, *McEntee has ordered officials to beef up facial recognition laws in response to Dublin riot*, *TheJournal.ie* 26 November 2023 <https://www.thejournal.ie/facial-recognition-6232757-Nov2023/>

181 News Desk, *Government to introduce standalone bill on facial recognition technology*, Irish Legal News, 20 June 2023 <https://www.irishlegal.com/articles/government-to-introduce-standalone-bill-on-facial-recognition-technology>

182 Irish Council for Civil Liberties, *Criticism of FRT plans by Government TDs welcomed by ICCL*, 6 April 2023 <https://www.iccl.ie/news/criticism-of-frt-plans-by-government-tds-welcomed-by-iccl/>

183 Department of Justice (Ireland), *Minister McEntee receives Cabinet approval for draft Facial Recognition Technology Bill*, 14 December 2023 [https://www.gov.ie/en/press-release/797e2-minister-mcentee-receives-cabinet-approval-for-draft-facial-recognition-technology-bill/#:~:text=Minister%20for%20Justice%20Helen%20McEntee,\(FRT\)%20in%20specific%20circumstances_](https://www.gov.ie/en/press-release/797e2-minister-mcentee-receives-cabinet-approval-for-draft-facial-recognition-technology-bill/#:~:text=Minister%20for%20Justice%20Helen%20McEntee,(FRT)%20in%20specific%20circumstances_)

184 *Justice Committee highlights serious deficiencies with Facial Recognition Technology bill*, ICCL, February 2024, <https://www.iccl.ie/digital-data/justice-committee-highlights-serious-deficiencies-with-facial-recognition-technology-bill/>

Other

In 2024, *An Garda Síochána* changed its policing response to far-right protests and is now more proactive and has made multiple arrests.¹⁸⁵

Freedom of expression and of information

Rules on hate speech and their enforcement

A public consultation on the review of existing provisions on incitement to hatred – the Prohibition of Incitement to Hatred Act (1989) – was launched in 2019¹⁸⁶ but did not culminate in any legislative changes. The Criminal Justice (Hate Offences) Act (2024)¹⁸⁷ – previously known as the Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022 – was signed into law in October 2024, introducing the first-ever provisions on hate crime in Ireland. The act has yet to be commenced. Provisions aimed at repealing the Prohibition of Incitement to Hatred Act and updating legislation on criminal hate speech

were removed from the legislation at the final stages.

In October 2024, the European Commission sent Ireland a letter of formal notice for failure to fully transpose the 2008 Council Framework decision on combating racism and xenophobia. The Commission considers that “Ireland has not fully transposed the provisions related to incitement to hatred or violence, including the condoning, denial or gross trivialisation of international crimes and the Holocaust.”¹⁸⁸ Welcoming the passage of the hate crime legislation, the Minister for Justice acknowledged the EU law requirements, outlining that:

*“The Prohibition of Incitement to Hatred Act 1989 will remain in force and incitement to hatred is not dealt with in the Criminal Justice (Hate Offences) Bill. Necessary amendments to the 1989 Act that are required under EU law are under consideration and will be progressed separately in due course.”*¹⁸⁹

Prior to the introduction of the Criminal Justice (Hate Offences) Act and in the absence of legislation, *An Garda Síochána* adopted and

185 ICCL& CAJ, *Seminar Discussion Summary the Policing of Protest: A Shifting Landscape?* p.8 14 March 2024 <https://www.iccl.ie/wp-content/uploads/2024/09/Policing-for-Peace-Dublin-protest-report-WEB.pdf>

186 Department of Justice (Ireland), *Review of the Prohibition of Incitement to Hatred Act (1989), Public Consultation*, October 2019 <https://assets.gov.ie/237923/e8314384-5f81-47ea-b3c7-128eb23a6e23.pdf>

187 Houses of the Oireachtas, No. 41 of 2024 Criminal Justice (Hate Offences) Act (2024) <https://www.irishstatutebook.ie/eli/1994/act/2/enacted/en/html>

188 European Commission, October infringements package: Key Decisions, 3 October 2024 https://ec.europa.eu/commission/presscorner/detail/en/inf_24_4561

189 Department of Justice (Ireland), *Minister McEntee welcomes passing of hate crime legislation by Oireachtas* 23 October 2024 <https://www.gov.ie/en/press-release/a597e-minister-mcentee-welcomes-passing-of-hate-crime-legislation-by-oireachtas/>

operated its own working definition of ‘hate crime’ and ‘hate incidents’.¹⁹⁰ This approach to the recording of hate-related discriminatory motives was introduced in late 2020 and annual data have been available from the *Gardaí* since 2021. In the latest data from 2023, ‘prohibition/incitement to hatred’ is recorded as the 5th most frequently recorded crime incident type.¹⁹¹

Criminalisation of speech

See section ‘Rules on hate speech and their enforcement’ for information on criminal provisions on certain forms of hate speech.

Censorship and self-censorship, including on the use of symbols and slogans

See previous section on Financing framework for CSOs.

Restrictions on access to information

A review of freedom of information legislation was commenced in 2021 but has not progressed.¹⁹²

Spread of and responses to disinformation

In June 2024, ICCL withdrew from the Government’s National Counter Disinformation Strategy working group,¹⁹³ because the Department of Justice blocked two essential actions: enforcement of GDPR Article 9 to switch off by default the toxic recommender algorithms on digital platforms that rely on unlawful processing of intimate personal data, and enforcement of GDPR Article 5(1)(f) against the data free-for-all in the online advertising system, which is undermining the business of journalism while subsidising conspiracy media.¹⁹⁴

190 An Garda Síochána, *Policy Document: Responding to Hate Crimes and Non-Crime Hate Incidents 2021* <https://www.garda.ie/en/about-us/publications/policy-documents/responding-to-hate-crimes-and-non-crime-hate-incidents-policy-document-2021.pdf>

191 Garda Síochána: *Hate Crime Online Reporting Statistics 2023*, 8 May 2024 <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/news-media/2023-hate-crime-data-and-related-discriminatory-motives.html>

192 Department of Public Expenditure, NDP Delivery and Reform (Ireland), *Review of the Freedom of Information Act Progress Update*, December 2022 <https://assets.gov.ie/267951/e4cd6930-3de5-44e9-a6ec-684a5d8caf4d.pdf>

193 Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (Ireland), *Multi-stakeholder Working Group established to develop a National Counter Disinformation Strategy*- 21 February 2023 <https://www.gov.ie/en/press-release/6ece9-unpublished-multi-stakeholder-working-group-established-to-develop-a-national-counter-disinformation-strategy/?app=true>

194 Johnny Ryan, ICCL, *The Six Horsemen of the Digital Apocalypse*, Presentation to the European Data Summit 2024, at the Konrad Adenauer Foundation, 24 April 2024 <https://www.iccl.ie/news/six-horsemen-of-the-digital-apocalypse/>

Online content regulation

The Online Safety and Media Regulation Act was signed into law on 10 December 2022¹⁹⁵ leading to the establishment of *Coimisiún na Meán* in March 2023.¹⁹⁶ The Commission published a binding Online Safety Code for video sharing platforms in October 2024.¹⁹⁷ ICCL argued, unsuccessfully, that as part of this code, the Commission must address algorithmic amplification¹⁹⁸ and switch off recommender systems by default.¹⁹⁹

A requirement of both the EU's Audiovisual and Media Services Directive²⁰⁰ and the Online Safety and Media Regulation Act (2022)²⁰¹ is:

“a video-sharing platform service provider shall take appropriate measures to protect the general public from programmes, user-generated videos and audio-visual commercial communications containing incitement to violence or hatred directed against a group of persons or a member of a group based on any of the grounds referred to in Article 21 of the Charter of Fundamental Rights of the European Union.”

Travellers are covered as members of a protected group where incitement might occur, however they are not protected from widespread hatred. The Online Safety and Media Regulation Act (2022) did not name Travellers as a protected group, therefore for every new code developed. Traveller organisations will

195 Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (Ireland), *President Higgins signs Online Safety and Media legislation into law*, 12 December 2022 <https://www.gov.ie/en/press-release/120ff-president-higgins-signs-crucial-online-safety-and-media-legislation-into-law/#:~:text=%E2%80%9CThe%20Online%20Safety%20and%20Media,importance%20to%20protecting%20children%20online>

196 Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (Ireland), *New media regulator, Coimisiún na Meán, formally established*, 15 March 2023 <https://www.gov.ie/en/press-release/83829-unpublished-new-media-regulator-coimisiun-na-mean-formally-established-today/>

197 Coimisiún na Meán, *Coimisiún na Meán adopts final Online Safety Code*, 21 October 2024 <https://www.gov.ie/en/press-release/83829-unpublished-new-media-regulator-coimisiun-na-mean-formally-established-today/>

198 Irish Council for Civil Liberties, *Media Commission urged to switch off Big Tech's toxic algorithms*, 4 September 2023 <https://www.iccl.ie/digital-data/media-commission-urged-to-switch-off-big-techs-toxic-algorithms/>

199 Irish Council for Civil Liberties, *ICCL disappointed at removal of recommender system measures from Online Safety Code*, 27 May 2024 <https://www.iccl.ie/digital-data/iccl-disappointed-at-removal-of-recommender-system-measures-from-online-safety-code/>

200 Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities <https://eur-lex.europa.eu/eli/dir/2018/1808/oj/eng>

201 Houses of the Oireachtas, No. 41 of 2022, Online Safety and Media Regulation Act (2022) <https://www.irishstatutebook.ie/eli/2022/act/41/enacted/en/html>

have to continue to reassert the further need for an adequate standard of protection.²⁰² A broadened legal safeguard in conjunction with the Charter of Fundamental Rights is needed to ensure in particular, a safeguard from identity and race-based harm on aggregate experienced by minority groups.

Attacks and harassment

Intimidation / negative narratives / smear campaigns / disinformation campaigns

Attempts to discredit and call into question the role of civil society continue in public discourse, in both media and commentary from some politicians. This has mostly focused on arguments about “defunding NGOs” and them being a “waste of money”, often targeting organisations working on migration and LGBT issues.²⁰³ This narrative intensified

during the March 2024 referenda, centred on the role that state-funded NGOs played in the campaigning,²⁰⁴ and has continued in right-wing alternative media.²⁰⁵

Physical attacks on people and property

It was widely reported in June 2024 that several gay men were “hunted” with weapons in the Phoenix Park in Dublin City.²⁰⁶ The victims of the alleged crime claimed that their report was dismissed when they reported it to two separate *Garda* stations. They subsequently approached a government Senator who raised the matter in *Seanad Éireann*. Following the incident the *Garda* National Community Engagement Bureau connected with LGBTQ+ support and advocacy organisations.²⁰⁷ A man was subsequently charged and has appeared twice in court in relation to the attack. The file remains

202 Traveller organisations successfully lobbied on the Code for video sharing platforms, and Travellers are now explicitly identified as an at risk protected group in areas of in dissociable user-generated content’ and ‘restricted video content’ and ‘restricted in dissociable user-generated content’.

203 Shane Raymond, *Major analysis shows how Irish disinformation ecosystem has been ‘co-opted by far-right actors’*, *The Journal.ie* 20 November 2023 <https://www.thejournal.ie/how-misinformation-spreads-in-ireland-isd-analysis-social-media-news-fringe-groups-6226354-Nov2023/>

204 Kitty Holland, *NGOs must ‘listen hard’ to those they represent after crushing defeat of care referendum they backed*-*Irish Times* 15 March 2024 <https://www.irishtimes.com/politics/2024/03/15/ngos-must-listen-hard-to-those-they-represent-after-crushing-defeat-of-care-referendum-they-backed/>

205 Ben Scallan, *Fine Gael Minister asks if NGOs are representative of society* GRIPT 10 March 2024 <https://gript.ie/fine-gael-minister-asks-if-ngos-are-representative-of-society/>

206 Marie O’Halloran & Conor Lally *Three gay men ‘hunted’ in Phoenix Park by six men with knives in ‘shocking’ incident*, *Irish Times* 19 June 2024 <https://www.irishtimes.com/politics/2024/06/19/three-gay-men-hunted-in-phoenix-park-by-six-men-with-knives-in-shocking-incident/>

207 Elaine Loughlin & Martin Mongan, *Three gay men ‘hunted down’ by gang of six armed with knives in Phoenix Park*, *Irish Examiner* 19 June 2024 <https://www.irishexaminer.com/news/arid-41419933.html>

with the prosecutorial service which is considering the evidence.²⁰⁸

Administrative harassment

Concerns have been raised regarding the use of regulatory complaints mechanisms and the rapid growth of internally launched investigations against NGOs working on certain topics by regulatory bodies. Organisations working on Palestine, asylum/international protection, and LGBTI+ rights, in particular, report unusual and repeated requests for information and regulatory barriers being introduced that are hindering their work.²⁰⁹

Legal harassment, including Strategic Lawsuits Against Public Participation (SLAPPs), prosecutions and convictions of civil society actors

See previous section on SLAPPs and defamation.

Control and surveillance

In 2024, *An Garda Síochána* announced its intent to expand its social-media monitoring to combat far-right extremism. The expansion will see the *Gardaí* open four open-source intelligence units, one for each *Garda* region.²¹⁰

Law enforcement capacity to ensure the safety of civil society actors and to investigate attacks and harassment

In the state's contribution to the 2024 reporting cycle, it was noted that "*An Garda Síochána* has no evidence that there is a problem with [the] safety of civil society."²¹¹ ICCL disputes this claim. Libraries,²¹² NGOs,²¹³ unions,²¹⁴ and

208 Tom Tuite, *Teen who insists alleged Phoenix Park violent disorder was 'not homophobic' has bail relaxed*, Sunday World 17 September 2024 <https://www.sundayworld.com/crime/courts/teen-who-insists-alleged-phoenix-park-violent-disorder-was-not-homophobic-has-bail-relaxed/a374899073.html>

209 Unpublished ICCL research.

210 Conor Gallagher, *Gardaí expand social-media monitoring to combat far-right extremism and serious offending*, Irish Times 11 November 2024 <https://www.irishtimes.com/crime-law/2024/11/11/gardai-expand-social-media-monitoring-to-combat-far-right-extremism-and-serious-offending/>

211 Ireland, Member State Contribution European Commission Annual Rule of Law Report 2023 https://commission.europa.eu/document/download/f008fc7f-b464-4817-9e3c-b3884a4334ea_en?filename=76_1_52868_input_mem_ireland_en.pdf

212 Cormac O'Keeffe, *Far right should not be able to disrupt 'sanctuary' of libraries, says union*, Irish Examiner, 29 August 2024 <https://www.irishexaminer.com/news/arid-41465698.html>

213 Unpublished ICCL research

214 Irish Congress of Trade Unions, *Action plan to tackle the far right*- 1 May 2023 <https://www.ictu.ie/news/action-plan-tackle-far-right>

schools²¹⁵ have all faced threats and many of these have been reported to *An Garda Síochána*, including during 2023.²¹⁶

Online civic space

Online smear and disinformation campaigns

Several NGOs have chosen to remove accounts from social media sites or restrict use, primarily X, owing to ongoing trolling and abuse, including threats to staff.²¹⁷

Public participation

Rules and practices on dialogue with civil society

ICCL research²¹⁸ has shown that organisations struggle to keep track of stakeholder engagements of relevance to their work, that the resources needed to partake in these engagements are not considered worth the outcome, and that they are increasingly ambivalent about the processes. For example, 70% of survey respondents said that they missed contributing inputs into policy or legislation as they found out about it too late in the process. Engagements are often viewed as a “box ticking” exercise with decisions not based on data or evidence.

215 Institute for Strategic Dialogue, *Anti-LGBTQ+ protests in Ireland shift focus from libraries to schools, curriculums and educators*, 12 September 2023 <https://www.isdglobal.org/isd-in-the-news/anti-lgbtq-protests-in-ireland-shift-focus-from-libraries-to-schools-curriculums-and-educators/>

216 Cormac Fitzgerald Explainer, *Why are protesters targeting Ireland's libraries?* *TheJournal.ie* 8 August 2023 <https://www.thejournal.ie/library-protests-ireland-6135746-Aug2023/>

217 Charities Institute Ireland, *Why Now is the Time for Charities to Rethink Their Presence on X (Twitter)*-21 November 2024 <https://charitiesinstitute.ie/news/blogs/757/757-Why-Now-is-the-Time-for-Charities-to-Rethink-Their-Presence-on-X-Twitter-BelongTo>, *Why we decided to leave Twitter/X*, 26 October 2023 <https://www.belongto.org/why-we-decided-to-leave-twitter-x/>

218 ICCL, *“That’s Not Your Role” State Funding and Advocacy in The Irish Community Voluntary and Non-Profit Sector*-ICCL 1 May 2024 <https://www.iccl.ie/wp-content/uploads/2024/04/Thats-Not-Your-Role-WEB.pdf>

DISREGARD OF HUMAN RIGHTS OBLIGATIONS AND OTHER SYSTEMIC ISSUES AFFECTING THE RULE OF LAW ENVIRONMENT —

Key recommendations

- *The incoming government should establish a standing mechanism for the investigation of historical rights violations.*
- *The Department of Justice and the Department of Children, Equality, Disability, Integration and Youth should conduct a review of existing schemes for survivors of historical rights violations to ensure that redress meets adequate thresholds.*
- *The Department of Health should proceed with reform of the Mental Health Act (2001) to ensure the rights of those in involuntary detention are vindicated.*

Systemic human rights violations

Widespread human rights violations and/or persistent protection failures

Mental Health Services — The Assisted Decision-Making (Capacity) Amendment Bill (2022)²¹⁹ which amended the Assisted Decision-Making (Capacity) Act (2015) was commenced in April 2023. As stated in the 2023 submission, this is a very welcome piece

of legislation that abolishes wardship in Ireland. However, those involuntarily detained under section 3(1)(a) of the Mental Health Act (2001)²²⁰ remain the only cohort of people deprived of the rights extended under this new legislation. This includes the Advance Healthcare Directives, which set out instructions outlining the healthcare treatments individuals wish to refuse or request, in the future when they no longer have the capacity to make those decisions themselves.²²¹ The Government has

219 Houses of the Oireachtas. No. 46 of 2022, Assisted Decision-Making (Capacity) (Amendment) Act (2022) <https://data.oireachtas.ie/ie/oireachtas/act/2022/46/eng/enacted/a4622.pdf>

220 Houses of the Oireachtas. No. 25 of 2001, Mental Health Act (2001) <https://www.irishstatutebook.ie/eli/2001/act/25/enacted/en/html>

221 Health Service Executive (Ireland), Advance Healthcare Directives, Accessed 20 January 2025 [https://www.hse.ie/eng/about/who/national-office-human-rights-equality-policy/assisted-decision-making-capacity-act/advance-healthcare-directive/#:~:text=An%20Advance%20Healthcare%20Directive%20\(AHD,the%20capacity%20to%20do%20so.](https://www.hse.ie/eng/about/who/national-office-human-rights-equality-policy/assisted-decision-making-capacity-act/advance-healthcare-directive/#:~:text=An%20Advance%20Healthcare%20Directive%20(AHD,the%20capacity%20to%20do%20so.)

stated its intention to remedy this discriminatory omission in the reform of the Mental Health Act.

In February 2023 the United Nations Committee on the Rights of the Child published its concluding observations²²² on Ireland's compliance with the Convention on the Rights of the Child. The Committee raised concerns about insufficient and inadequate mental health services for children and urged the State to "ensure that the revisions of the Mental Health Act and the Assisted Decision-Making (Capacity) Act include:

- *An explicit prohibition of the practice of placing children with mental health issues in adult psychiatric units.*
- *A recognition of children's right to be heard in decisions regarding their mental health care and assistance from an independent advocate."*

In July 2023, the Mental Health Commission published an *Independent Review of the provision of Child and Adolescent Mental Health*

*Services (CAMHS) in the State Inspector of Mental Health Services.*²²³ The Commission's report shows there are serious deficits in the provision of mental health services, for children and young people. Poor clinical governance, failure to manage risk and inadequate oversight have severely compromised the safety and quality of care. The Mental Health Commission has outlined 49 recommendations in its report including the immediate and independent regulation of services through the legislative reform of the Mental Health Act.

In July 2024, the Mental Health Bill (2024) was published.²²⁴ If passed, this bill will repeal the Mental Health Act (2001)²²⁵ in full, replacing it with a new statutory framework for regulating mental health services in Ireland. ICCL has two primary concerns with the current draft of the bill. Firstly, S.70 of the Bill allows for the continued detention of a person who is refusing treatment for 72 hours to build a 'therapeutic relationship', even where that person has capacity to refuse treatment. This an extraordinary measure which may amount to coercive practices.

222 United Nations (UN) Committee on the Rights of the Child Concluding observations on the combined fifth and sixth periodic reports of Ireland CRC/C/IRL/CO/5-6 <https://digitallibrary.un.org/record/4004401?ln=en&v=pdf>

223 Mental Health Commission (Ireland), *Independent Review of the provision of Child and Adolescent Mental Health Services (CAMHS) in the State Inspector of Mental Health Services*, July 2023 <https://www.mhcirl.ie/sites/default/files/2023-07/Mental%20Health%20Commission%20Independent%20Reviews%20of%20CAMHS%20services%20in%20the%20State.pdf>

224 Department of Health, Ireland, Mental Health Bill (2024) <https://data.oireachtas.ie/ie/oireachtas/bill/2024/66/eng/initiated/b6624d.pdf>

225 Houses of the Oireachtas, No. 25 of 2001, Mental Health Act (2001) <https://www.irishstatutebook.ie/eli/2001/act/25/enacted/en/html>

Secondly, there is no provision in the Bill regulating the use of chemical restraint (the administration of sedatives to ensure a patient is compliant or incapable of resistance). Currently, there is no guidance or codes of practice relating to the use of chemical restraint. The Mental Health Commission has stated this is due to there being no need to do so under the Mental Health Act (2001). The Mental Health Commission has stated that “once the 2001 Act has been updated, the MHC will address this area”.²²⁶ ICCL is gravely concerned that unless it is included in the revised bill, the use of chemical restraint will continue to be an unregulated practice.

Travellers — Travellers continue to be severely impacted by homelessness, arising from policy and infrastructural obstacles to accessing housing and accommodation, insecure tenure in private rented accommodation, and eviction from accommodation due to overcrowding, among other issues.

In March 2024 the European Committee on Social Rights found that;

*“Travellers in Ireland continue to experience violations of their rights to social, legal and economic protection, due to the State’s failure to provide sufficient accommodation for Travellers, the inadequate conditions of existing Traveller sites, and due to State practices relating to the eviction of Travellers.”*²²⁷

Following IHREC’s Equality Reviews of local authorities in 2021,²²⁸ seven local authorities were asked to develop Equality Action Plans. Local Authorities are duty bound²²⁹ to provide accommodation to Travellers which, as per the judgment in *Clare County Council v McDonagh & Anor* (2022),²³⁰ includes Traveller-specific halting sites. IHREC identified shortcomings in the implementation and oversight mechanisms included in all, but two existing local authority plans²³¹ and general shortcomings and blockages in the delivery

226 Mental Health Commission (Ireland), *FAQ received during the launch of ‘Restrictive Practices in Mental Health Settings – Revised Rules’ event*, October 2022 https://www.mhcirl.ie/sites/default/files/2022-10/FAQ%20for%20website_0.pdf

227 Council of Europe, European Committee of Social Rights–Comité Européen des Droits Sociaux, *Follow-Up to Decisions on The Merits of Collective Complaints*, March 2024 <https://rm.coe.int/findings-2023-en/1680aef57f>

228 Irish Human Rights and Equality Commission, *Equality Reviews Provision of Traveller accommodation by local authorities*, 2021 <https://www.ihrec.ie/our-work/equality-review?topic=traveller-accommodation&location=meath-county-council>

229 Houses of the Oireachtas, No. 33 of 1998, Housing (Traveller Accommodation) Act, (1998) <https://www.irishstatutebook.ie/eli/1998/act/33/enacted/en/html>

230 Supreme Court (Ireland), Judgment of 31 January 2022, *Clare County Council v McDonagh & Anor* (2022) <https://www.ucc.ie/en/tejp/traveller-law-database/clare-county-council-v-mcdonagh--anor-2022-iesc-2-.html>

231 Irish Human Rights and Equality Commission, *Commission publish Equality Action Plans from seven local authorities on Traveller accommodation-26* June 2024 <https://www.ihrec.ie/commission-publish-equality-action-plans-from-seven-local-authorities-on-traveller-accommodation/>

of Traveller-specific accommodation. The absence of regulatory enforcement powers for IHREC undermines the requirement for local authorities to take action.

A total of 94% of the Traveller community lives in accommodation provided by local authorities; 4000 live in inadequate, unsafe and insecure accommodation, according to the Department of Housing, Local Government and Heritage.²³² Halting sites are often in poor condition, overcrowded, and poorly maintained by local authorities. The Housing (Standards for Rented Houses) Regulations Act (2019)²³³ does not cover transient, temporary and permanent halting sites. From 2019 to 2022 local authorities delivered 6,499 new housing builds nationally, versus 44 units of Traveller-specific accommodation.²³⁴ Under their mandatory 5-year Traveller Accommodation Programmes

2019-2024 local authorities supplied only 725 of the 3,060 units planned for nationally.²³⁵ In 2023, a total of 8,110 new-build social homes were delivered nationally with 32,695 new homes overall, under the Housing for All Plan, contrasted with just 162 'outputs' related to Traveller-specific accommodation.²³⁶

Impunity and/or lack of accountability for human rights violations

In December 2023 an investigation uncovered that 62 children seeking international protection in Ireland had disappeared from state care since 2017, raising serious concerns regarding trafficking and exploitation of vulnerable children.²³⁷ Three-quarters of those missing have not been the subject of missing person appeals. The issue of children disappearing from state care has persisted into 2024.²³⁸

232 Department of Housing, Local Government and Heritage (Ireland), Traveller accommodation statistics, Accessed 20 January 2025 <https://www.gov.ie/en/collection/29c76-traveller-accommodation-statistics/>

233 Department of Housing, Local Government and Heritage (Ireland), S.I. No. 137/2019 - Housing (Standards for Rented Houses) Regulations 2019 <https://www.irishstatutebook.ie/eli/2019/si/137/made/en/print>

234 Hayley Halpin, *Local authorities provided just 44 units of Traveller housing in three years, Committee to hear*, TheJournal.ie, 30 November 2023 <https://www.thejournal.ie/traveller-housing-oireachtas-committee-6236771-Nov2023/>

235 Department of Housing, Local Government and Heritage (Ireland), *Minister O'Brien publishes social and affordable housing delivery statistics for Quarter 4 2023*, 28 March 2024 <https://www.gov.ie/en/press-release/6d982-minister-obrien-publishes-social-and-affordable-housing-delivery-statistics-for-quarter-4-2023/#:~:text=In%202023%2C%2011%2C939%20new%20social,10%2C263%20social%20homes%20were%20delivered.>

236 Unpublished Parliamentary Question Written Response November 2024

237 Patricia Devlin, *Over 60 migrant children missing after disappearing from State care* The Journal.ie 14 December 2023 <https://www.thejournal.ie/kids-in-care-missing-migrants-6247208-Dec2023/>

238 Kitty Holland, *Thirty-seven children reported as missing from Tusla care so far this year*, Irish Times October 2024 <https://www.irishtimes.com/ireland/social-affairs/2024/10/28/thirty-seven-children-reported-as-missing-from-tusla-care-so-far-this-year/>

In January 2024, Ireland initiated an inter-state case against the United Kingdom at the European Court of Human Rights regarding the UK's Northern Ireland Troubles (Legacy and Reconciliation) Act (2023).²³⁹ The case alleges violations of Articles 2 (right to life), 3 (prohibition of torture and inhuman or degrading treatment), 6 (right to a fair trial), 13 (right to an effective remedy) and 14 (prohibition of discrimination), given the Legacy Act's halting of inquests, civil cases and criminal prosecutions for crimes during the Troubles.²⁴⁰ At the same time Ireland has not established any mechanism to investigate legacy cases involving alleged human rights violations in the Republic, despite legal obligations to do so.²⁴¹ There has been no response to an ICCL petition submitted to the Minister of Justice in September 2023 calling for a public inquiry into the Sallins train robbery (1976)²⁴² and families of the victims of the Dublin and

Monaghan bombings in 1974²⁴³ are still awaiting accountability.

Other systemic issues

Shane O'Farrell—In 2011, Shane O'Farrell was killed in a hit-and-run incident in Monaghan. The individual responsible for his death had broken numerous bail conditions and should not have been free at the time of the killing.²⁴⁴ The former prime minister said that the case “reveals shocking malpractice and dysfunction in the criminal justice system”.²⁴⁵

Despite both houses of the Irish parliament²⁴⁶ voting to hold a public inquiry into the circumstances surrounding the death in 2018 and 2019, this has not taken place. In its place, the government commissioned a retired district court Judge to carry out a scoping exercise, conducting a preliminary review to ascertain

239 Houses of Parliament (United Kingdom), Northern Ireland Troubles (Legacy and Reconciliation) Act (2023) <https://www.legislation.gov.uk/ukpga/2023/41>

240 European Court of Human Rights, *New inter-State application brought by Ireland against the United Kingdom*, 19 January 2024 <https://hudoc.echr.coe.int/fre-press#%7B%22itemid%22:%5B%22003-7854820-10910604%22%5D%7D>

241 European Convention on Human Rights, arts. 2, 3. https://www.echr.coe.int/documents/d/echr/convention_ENG

242 The Irish Council for Civil Liberties, *ICCL urges Minister for Justice to respond to Sallins Case petition*, 25 November 2024 <https://www.iccl.ie/news/iccl-letter-minister-sallins-case-petition/>

243 Justice for the Forgotten-Campaign Group, Accessed 20 January 2025 <http://www.dublinmonaghanbombings.org/home/>

244 Justice for Shane-Campaign Group, Accessed 20 January 2025 <http://www.justiceforshane.ie/>

245 Dáil Éireann debate -Leaders' Questions, 3 May 2017 <https://www.oireachtas.ie/en/debates/debate/dail/2017-05-03/2/>

246 Dáil Éireann debate -Death of Shane O'Farrell: Motion (Resumed) [Private Members], 14 Jun 2018 <https://www.oireachtas.ie/en/debates/debate/dail/2018-06-14/21/>
Seanad Éireann debate - Death of Shane O'Farrell: Motion 13 Feb 2019 <https://www.oireachtas.ie/en/debates/debate/seanad/2019-02-13/10/>

whether there were any circumstances surrounding the death of Mr. O'Farrell which required further inquiry, beyond those already carried out.²⁴⁷

The scoping exercise report was published in 2023.²⁴⁸ The terms of reference asked the District Court judge to consider the outcome or reports of investigations or inquiries that had already taken place, with a particular emphasis on the reports of the investigations carried out by *Garda Síochána* Ombudsman Commission (GSOC) and the Independent Review Mechanism. It appears that the Judge was not provided with the statutory GSOC reports.²⁴⁹ The family considers the scoping exercise to be incomplete and deeply flawed, a sentiment that is shared across the political spectrum²⁵⁰

as evidenced by responses in parliament to the publication of the review.²⁵¹

In July 2024 the Dáil again voted for a public enquiry into the killing,²⁵² a call echoed by the family. The family is seeking a GSOC public interest report into the killing and a public enquiry, in line with Ireland's obligations under Article 2 of the ECHR.

Unlawful Garda surveillance dossiers — In December 2024 it came to light²⁵³ that *An Garda Síochána* had created thousands of unlawful intelligence files on children under the age of 12 – some for infants as young as 42 days old – between 1999 and 2023.

247 Dáil Éireann debate -Final Report of the Independent Scoping Exercise into the Circumstances surrounding the Death of Mr. Shane O'Farrell: Statements, 17 Oct 2023 <https://www.oireachtas.ie/en/debates/debate/dail/2023-10-17/25/>

248 Department of Justice (Ireland), *Report of Scoping Exercise in relation to the death of Shane O'Farrell*, 3 July 2023 <https://www.gov.ie/en/publication/d4410-report-of-scoping-exercise-in-relation-to-the-death-of-shane-ofarrell/>

249 Justice For Shane, *Response of The O'Farrell Family to Scoping Exercise Report-* 27 September 2023 <https://justicefor-shane.ie/wp-content/uploads/2023/09/27.09.23-Press-Release-from-OFarrell-family-1.pdf>

250 Hugh O'Connell, *Helen McEntee under pressure after 'whitewash' report into hit-and-run death of Shane O'Farrell*, Irish Independent, 22 October 2023 <https://www.independent.ie/irish-news/helen-mcentee-under-pressure-after-whitewash-report-into-hit-and-run-death-of-shane-ofarrell/a18206872.html>

251 Seanad Éireann Debate, Final Report of the Independent Scoping Exercise into the Circumstances Surrounding the Death of Mr. Shane O'Farrell: Statements, 17 October 2023 <https://www.oireachtas.ie/en/debates/debate/seanad/2023-10-17/11/>

252 Dáil Éireann Debate, Tuesday, Death of Shane O'Farrell: Motion [Private Members], 9 Jul 2024 <https://www.oireachtas.ie/en/debates/debate/dail/2018-06-14/21/>

253 [Thousands of unlawful Garda surveillance dossiers created about children including infants-ICCL December 2024](#)

This was revealed in a Garda Inspectorate report,²⁵⁴ ten years after concerns about Traveller children – some as young as 16 days old – being placed on the PULSE system were first raised in the *Dáil*²⁵⁵ and media²⁵⁶ in 2014. The aforementioned Garda Inspectorate report details that *gardai* created intelligence files on children from 1 January 2015 to 31 March 2023 including:

- 587 intelligence records of children under the age of 3
- 517 intelligence records of children between the age of 4 and 7
- 1,100 intelligence records of children aged between 8 and 11

These records included:

- Recording a 10-month-old infant as “involved in crime”

- “Inappropriately” recording a mother and her one-year-old infant sitting in a car “waiting for their laundry”
- “Inappropriately” recording a mother, father and a two-year-old child “who were seen walking” in another intelligence file.

The Garda Inspectorate also published figures for 1999-2015, from a Garda internal review:

- 7,408 intelligence records linked to children under 12 were created between 1999 and 2015.
- 3,668 of which were non-compliant with data protection legislation.
- 2,244 had incorrect dates of birth. An unknown number of this smaller set of records that were marked as children were in fact adults.

While thousands of these unlawful records have since been removed, the Garda Inspectorate has told *An Garda Síochána* to audit all

254 Garda Inspectorate, *Post Implementation Review Crime Investigation Report 2014 Recommendation 8.17 Recording details of children under 12 on PULSE intelligence records*, 3 December 2024 <https://www.gsinsp.ie/publication-of-post-implementation-review-crime-investigation-report-2014-recommendation-8-17/#:~:text=Today%20the%20Garda%20Inspectorate%20has,an%20intelligence%20record%20on%20PULSE%E2%80%9D>.

255 Dáil Éireann debate Garda Inspectorate Report on the Fixed Charge Processing System: Statements [John McGuinness TD] 26 March 2014 <https://www.kildarestreet.com/debates/?id=2014-03-26a.619&cs=Traveler+children+speaker%3A188#g642>

256 Gemma O'Doherty, *Gardai, stop spying on my toddlers*, *The Times*, 23 March 2014 <https://www.thetimes.com/article/bf70120c-8f32-49c5-99e0-94d1feb023db>

of its intelligence records created on children under 12, since 2015.²⁵⁷ *An Garda Síochána* must identify any intelligence records created in breach of its policy and delete all records not associated with very serious offences or where there are no other compelling reasons for retaining them.

ICCL is extremely concerned that, ten years after concerns about Traveller child surveillance were first raised, many questions remain unanswered. These include the exact number of children that have been affected and how many of the children are Travellers. There is also no information on how many of these files are still being maintained and whether any of these children, or their families, have suffered adverse legal consequences because of the dossiers.

Prisoners' Rights — The Irish Prison Service Annual Report 2023,²⁵⁸ published in December 2024, shows a significant increase of people committed to prison in Ireland, including an increase in short sentences of less than 12

months. Furthermore, more women are being imprisoned and official statistics document a tripling of the number of people being imprisoned for non-payment of fines. While efforts made to include detailed data on prison education and access to mental health services and progress in the continued rollout of in-cell telephones, are welcome, serious problems persist.

Since the end of 2023 Ireland has continued to break new prison overcrowding records - with safe capacity levels breached daily.²⁵⁹ Tangible short-term solutions are provided in the Prison Overcrowding Response Group's final report,²⁶⁰ which sets out practical measures that could quickly take the pressure off the prison service. The rights of many people in prison remain unmet, including hundreds of people sleeping on floors, thousands of people sharing cells. There is also limited access to recreational space and significant waiting lists to access nearly all vital services.

The Irish Penal Reform Trust has expressed concern²⁶¹ at the continued growth of short

257 Garda Inspectorate, Post Implementation Review Crime Investigation Report 2014 Recommendation 8.17 Recording details of children under 12 on PULSE intelligence records, 3 December 2024 <https://www.gsinsp.ie/publication-of-post-implementation-review-crime-investigation-report-2014-recommendation-8-17/#:~:text=Today%20the%20Garda%20Inspectorate%20has,an%20intelligence%20record%20on%20PULSE%E2%80%9D>

258 Irish Prison Service, *Annual Report 2023*, 13 December 2024 <https://www.irishprisons.ie/irish-prison-service-publishes-its-2023-annual-report/>

259 Irish Prison Service, *Annual Report 2023*, 13 December 2024 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2023-1.pdf

260 Irish Prison Service, *Prison Overcrowding Response Group Report*- 19 March 2024 https://www.iprt.ie/site/assets/files/7498/prison_overcrowding_response_group_report_web.pdf

261 *Overcrowded Prisons Demand Urgent Shift to Alternative Solutions in New Programme for Government*, IPRT, December 2024, <https://www.iprt.ie/latest-news/overcrowded-prisons-demand-urgent-shift-to-alternative-solutions-in-new-programme-for-government-iprt/>

sentences with a 10 per cent year-on-year increase in 2023 of sentences between three and six months.²⁶² There is particular alarm at the number of people experiencing homelessness immediately before imprisonment. On 31 December 2023, almost 800 people (16.4 %) reported being of “no fixed abode” upon committal to prison.²⁶³ This particularly impacts women with 28.6 % of the female prison population reporting that they were homeless before committal.²⁶⁴

262 Irish Prison Service, *Annual Report 2023*, 13 December 2024 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2023-1.pdf

263 Irish Prison Service, *Annual Report 2023*, 13 December 2024 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2023-1.pdf

264 Irish Prison Service, *Annual Report 2023*, 13 December 2024 https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2023-1.pdf

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The Irish Council for Civil Liberties (ICCL) is Ireland's leading independent human rights watchdog. The Irish Council for Civil Liberties monitors, educates and campaigns in order to secure full enjoyment of human rights for everyone.

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