

LIBERTIES

RULE OF LAW REPORT

2024

IRELAND

#ROLREPORT2024



**CIVIL
LIBERTIES
UNION FOR
EUROPE**



**Irish Council for
Civil Liberties**



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FOREWORD

This country report is part of the Liberties Rule of Law Report 2024, which is the fifth annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden, as well as a contributing partner organisation in Latvia.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and gathers public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2024 report was drafted by Liberties and its member and partner organizations, and it covers the situation during 2023. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports, and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2024 report includes 19 country reports that follow a common structure, mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Thirty-seven member and partner organisations and one independent human rights expert contributed to the compilation of these country reports.

[Download the full Liberties Rule of Law Report 2024 here](#)

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IRELAND

About the authors

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 every 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.

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 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.

The National Union of Journalists



For more than 100 years, the NUJ has fought for journalists and journalism. Today, the union is one of the largest independent journalists' unions in the world. NUJ members work across the media, from newspapers, broadcasting and book publishing to magazines, websites, mobile devices, social media and PR agencies. Our members work across a diverse range of jobs – anything from reporting, writing, photography and editing to design, videography, communications and presenting.

Mental Health Reform



Mental Health Reform is Ireland's leading national coalition on mental health. Our vision is of an Ireland where everyone can access the support they need in their community, to achieve their best possible mental health. We drive the progressive reform of mental health services and supports, through coordination and policy development, research and innovation, accountability and collective advocacy. Together with our 80 member organisations and thousands of individual supporters, Mental Health Reform provides a unified voice to the government, its agencies, the Oireachtas and the general public on mental health issues.

Note: While each of these organisations are experts in their areas of concern, no one of the organisations possesses the expertise sufficient to complete this report in isolation. This report represents a compilation of a wide array of material and expertise from the aforementioned organisations, co-ordinated by the Irish Council for Civil Liberties.

Inclusion as a contributor does not equate to an endorsement of the report as a whole.

Key concerns

In the area of justice, a number of significant pieces of legislation have commenced the parliamentary process or passed into law in the last 12 months which, although not perfect, will have an overall positive impact on the judicial system. These include the Judicial Appointments Commission Act and the Courts Delays Bill. The long-awaited report on the future of the Special Criminal Court and the Offences Against the State Act has also been published but with no timeline or plan for the implementation of its recommendations.

On the other hand, while the Judicial Appointments Commission Act has passed into law, the provisions of the act do not reach the highest standard as set out by the European Charter on the Statute of Judges and articulated in previous rule of law submissions. We are also particularly disappointed to note the retention of the Attorney General on the Commission Appointments Commission membership, as this could be perceived as having undue governmental involvement in the Commission's work and skews the balance away from 50% judicial membership and is contrary to best practice. Additionally, there

has been little to no tangible progress on the review of the civil legal aid scheme.

As regards the anti-corruption framework, while some amending legislation with respect to lobbying was passed this year, there has been no progress in the long awaited (and recommended) update of outdated public ethics legislation. Progress has been far too slow on developing a new public ethics regime, despite urgent need for reform in this area and calls from CSOs, the European Commission and GRECO. The last update on the progress of drafting the legislation was almost 12 months ago. Urgent action is required to ensure this legislation is passed before the next general election.







In relation to the media environment and media freedom, the establishment of Coimisiún na Meán and the publication of draft legislation to reform defamation law is welcome, but the review of the freedom of information regime remains stalled. A long-term plan for the financing of public service broadcasting is yet to be agreed. The draft Defamation (Amendment) Bill has completed pre-legislative scrutiny and the revised bill is awaiting publication.

The practice of rushing legislation at the end of parliamentary terms has abated for now. The establishment of the Electoral Commission is also very welcome. We remain concerned, however, that some newly established independent bodies are insufficiently resourced and/or not subject to appropriate governance to prevent political interference in their operation.

As for the civic space, the Charities (Amendment) Bill (2023) was published in December 2023 over a year after the pre-legislative scrutiny of the bill was completed. The long-promised review of the 1997 Electoral Act to remove restrictions on civil society funding has not materialised, despite the establishment of the Electoral Commission and the numerous recommendations and other interventions by domestic, regional and international organisations.

No progress on the issues of disregard of human rights obligations raised in the EU Commission’s 2023 report has been reported.

State of play (versus 2023)

-  Justice system
-  Anti-corruption framework
-  Media environment and freedom of expression and of information
-  Checks and balances
-  Enabling framework for civil society
-  Systemic human rights issues

Legend

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



Justice system

Key recommendations

- *Complete a comprehensive review of the legal aid system, which should include, inter alia; provision for an enhanced civil legal aid system, and a large-scale study of unmet legal need in Ireland.*
- *Set out a timeline and plan to implement the recommendations of The Independent Review Group on the Special Criminal Court and the Offences Against the State Act in a manner that ensures that all courts comply with constitutional and international fair trial standards.*
- *Publish legislation to remove prosecutorial powers from Gardaí and replace them with a system of public prosecutors, as per the recommendation contained in the Commission on the Future of Policing’s final report.*

Judicial independence

Appointment and selection of judges, prosecutors and court presidents

The Judicial Appointments Commission Act was finalised by parliament in July¹ and was found to be constitutional following a referral to the Supreme Court by the President in December.² The Act will establish a new, independent Judicial Appointments Commission to select and recommend persons for judicial office in Ireland, and in the EU and international courts.

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.³ 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 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.⁴ Following the verdict, the Minister for Justice issued a statement outlining that she has written to the Attorney General to examine options of the judge's removal.⁵ An opposition justice spokesperson has also written to the Judicial Council asking the body to clarify its role in the judge's removal.⁶ The judge resigned in January 2023, avoiding the necessity for a parliamentary vote on his removal.⁷

Promotion of judges and prosecutors

The Judicial Appointments Commission Act (2023)⁸ 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, who will produce a shortlist of candidates for selection for posts. It is in the gift of the government to reject all names on the shortlist if it so chooses, as per section 51 of the Act.

1 [Minister McEntee welcomes the passage of Bill giving effect to major reforms in how judges are appointed From Department of Justice Published on 4 July 2023](#)

2 [BreakingNews.ie Judicial Appointments Bill constitutional, Supreme Court rules December 8th 2023](#)

3 [Long read: The trial of the judge convicted of sex assaults on young men when working as a teacher](#)

4 [Removal from Judicial Office - Association of Judges of Ireland](#)

5 [Justice Minister to consult with AG on removal of judge following conviction for sexual assault.](#)

6 [Sinn Féin pushes for removal of judge convicted of sexual assaults](#)

7 [McEntee confirms resignation of judge Gerard O'Brien following sexual assault conviction](#)

8 [Judicial Appointments Commission Act 2023](#)

Allocation of cases in courts

The Court Proceedings (Delays) Bill 2023⁹ provides for statutory compensation for breach of the right to a hearing within a reasonable time in both civil and criminal matters. The Bill provides for the appointment of a Chief Court Delays Assessor and Court Delays Assessors to assess such applications. The Bill also provides for the making of an application to the Circuit Court in certain circumstances for such a declaration and compensation, and for related matters. The Bill is still in the legislative process as of the time of writing.

Independence/autonomy of the prosecution service

One of the key recommendations of the report of the Commission on the Future of Policing was that gardaí, the state police of Ireland, would no longer act as prosecutors in court cases.¹⁰ It was hoped that the Policing, Security and Community Safety Bill¹¹ would provide

for this recommendation¹² but this has not happened. A high-level group has completed a report on the review of gardaí prosecutorial powers, but this has yet to be presented to the government.¹³

Other

In June 2023 the long-awaited review of the Offences Against the State Act (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.¹⁴ As of yet there has been no official timeframe or plan announced by the government to implement the recommendations.¹⁵

9 [Court Proceedings \(Delays\) Bill 2023 Bill No. 17 of 2023](#) Rebecca Halpin, Senior Parliamentary Researcher (Law) 23 May 2023

10 [The Commission on the Future of Policing in Ireland Final Report 2018](#)

11 [Policing, Security and Community Safety Bill 2023: Community Safety](#) Patrice McDonnell, Senior Parliamentary Researcher (Law) 20 February 2023

12 [Irish Legal News Government pressed on timetable for removing prosecution powers from gardaí](#) February 2023

13 [Seanad Éireann debate - Wednesday, 4 October 2023 Policing, Security and Community Safety Bill 2023: Second Stage](#)

14 [Minister Helen McEntee publishes independent review of State's primary counter-terrorism legislation](#) From Department of Justice Published on 21 June 2023

15 [Irish Council for Civil Liberties: Minister must implement Review Group's recommendation and repeal the Offences Against the State Acts](#) 27 June 2023

Quality of justice

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

A public consultation on the review of the existing legal aid scheme was concluded in February 2023.¹⁶ As of December, no updates have been announced.

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.¹⁷ The report noted several submissions on the difficulty of taking a case before the Workplace Relations Commission (WRC), restrictive time limits, lack of reasonable accommodation to support people to access justice and the need for procedural accommodation and supports (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 WRC in the first instance. According to the legislative

programme, Heads of Bill are currently being prepared to make provision for proposed amendments arising from the Review of the Equality Acts, but there has been no update on this in a number of months.

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, but at the time of writing has not progressed since then. The Bill has completed its first stage in Seanad Éireann.¹⁸

Resources of the judiciary (human/financial/material)

The Judicial Panel Working Group published its delayed report in February 2023. The group made 54 recommendations¹⁹ on the future resourcing needs of the judicial system, including the need to appoint new judges. An implementation plan for the recommendations has yet to be published.

16 [Public Consultation on the Review of the Civil Legal Aid Scheme From Department of Justice Published on 8 December 2022 Open for submissions from 8 December 2022 Submissions closed 28 February 2023 Last updated on 8 February 2023](#)

17 [Minister O'Gorman publishes report on the submissions to the public consultation on the Review of the Equality Acts](#)

18 [Family Courts Bill 2022](#)

19 [Judicial Planning Working Group Report From Department of Justice Published on 24 February 2023](#)

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 the delay of over 11 years between the date of initiation of proceedings to 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 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. Although the concurring opinion of Judge O’Leary noted that some progress had been made with the introduction of case management and the expansion of the Court of Appeal, Judge O’Leary was still of the view that Ireland is not doing enough to meet its obligations under Article 6.²⁰ The *Keaney* case was 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 Court Proceedings (Delays) Bill is expected to address this judgement.²¹

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

In February 2022,²² 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 constitutional principles of independence and impartiality, the Bangalore Principles 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. MLRC notes that there is wide variation in how such appeals are processed, and that there is a general lack of transparency and a formalised process to be followed should an applicant wish to appeal a negative decision. MLRC notes that 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 the right to fair procedures. Our experience is that appeals can be lengthy to determine, and there is in

20 [European Court of Human Rights: Case of *Keaney v. Ireland* \(72060/17\) April 2020](#)

21 [Court Proceedings \(Delays\) Bill 2023 Bill No. 17 of 2023 Rebecca Halpin, Senior Parliamentary Researcher \(Law\) 23 May 2023](#)

22 [Guidelines for the judiciary on conduct and ethics, Foreword](#)

some instances a failure to apply independent mechanisms for such appeals. We note that the new eviction procedure provided for in Part 2 of the Housing (Miscellaneous Provisions) Act 2014²³ which provides for an internal appeals procedure with respect of tenancy warnings, commenced on April 13th, 2015.

In addition, in 2022 MLRC saw an increase of 250% in the number of queries received relating to refusal of access to emergency accommodation – temporary, emergency housing supports for people experiencing homelessness. This is a trend which continued into 2023. 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 1988,²⁴ 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. This rise in cases reflects a trend of increasingly formal barriers for people experiencing homelessness to access basic services such as emergency accommodation.

MLRC would welcome the development of less formal and community-based initiatives designed to protect the right to housing. A more cost-effective mechanism of resolving disputes with local authorities with respect to housing matters may be through a tribunal or appeals office. This may

make a remedy more accessible and formalised, and reduce the inconsistencies and related unfairness of the current procedures.

Potential restrictions on access to judicial review

The Planning and Development Bill 2023²⁵ was published in November 2023 and contains concerning plans to restrict access to judicial review in planning matters, rowing back on the significant progress Ireland has made to standing and cost rules in recent years as a result of its adoption of the Aarhus Convention.

Part 9 of the Bill stipulates that in order to challenge a planning decision, residents' associations and other unincorporated associations will be required to have a formal structure and a constitution and prove that two-thirds of their voting members approve the decision to proceed with a legal challenge. The names of all of those participating in the challenge will also need to be submitted. Environmental NGOs will face higher hurdles in bringing challenges on environmental matters. They will be required to have no fewer than 10 members and will have to have been in existence for one year prior to bringing any challenge.

Individuals and unincorporated associations will also be required to show that they have "sufficient interest" in the case, meaning they are directly or indirectly affected by what's proposed.

23 [Housing \(Miscellaneous Provisions\) Act 2014](#)

24 [Housing Act, 1988](#)

25 [Planning and Development Bill 2023](#)

A new *Environmental Costs Legal Scheme* is also proposed. It is unclear how this financial assistance mechanism will operate in practice, but the implications are that groups and individuals who lose judicial review challenges will have to pay their costs in full unless a means test finds them eligible for assistance.

Alongside a number of legal and academic experts, community and environmental groups and citizens, Community Law & Mediation has consistently

cautioned that these changes could have serious consequences for environmental oversight and accountability. In the current climate and biodiversity emergency, access to the judicial review process is crucial, as it is the only way for the citizen to hold decision-makers to account in relation to breaches of environmental and climate obligations.

At the time of writing, the Bill is progressing through the legislative process, with Committee Stage due to commence in February 2024.

Anti-corruption framework

Key recommendations

- *Publish and enact stalled comprehensive updated public ethics legislation without further delay.*
- *Conduct a public consultation on national measures required to address SLAPP litigation and associated NDAs, and implement stringent dissuasive penalties in respect of those pursuing SLAPP as a measure to deter the public and organisations from exercising their access to justice and public participatory and access to information rights.*
- *Instruct local authorities to fully enforce part 15 of the Local Government Act 2001 with regard to asset disclosure of county and city councillors.*

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.²⁶ The Review of Ethics Legislation will seek to respond to outstanding recommendations of the Moriarty and Mahon tribunals. The review was published in February

26 [Minister McGrath launches Public Consultation on Review of Ethics Legislation From Department of Public Expenditure, NDP Delivery and Reform](#) Published on 25 November 2021 Last updated on 25 November 2021

2023,²⁷ but no updates have been subsequently provided on plans for reform.

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. This Act enhances certain aspects of the principal act by increasing the type of groups which are subject to its provisions and improves the operation and enforcement of section 22 of the principal Act, which deals with restrictions on post-term employment as a lobbyist.²⁸

Media environment and media freedom

Key recommendations

- *Publish and enact legislation reforming defamation laws and related NDA restrictions as a matter of urgency.*
- *Progress the review of the Freedom of Information system to ensure a regime that is transparent, user-friendly and accessible.*
- *Ensure that in any action designed to counter hate speech, Coimisiún na Meán, the Electoral Commission and forthcoming incitement to violence or hatred legislation fully respect the right to freedom of expression.*

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 2022.²⁹ It contains over 50 recommendations on the structure and financing

27 [Review of Ireland's Statutory Framework for Ethics in Public Office From Department of Finance Published on 3 February 2023 Last updated on 22 March 2023](#)

28 [Modifications to the Regulation of Lobbying in Ireland Arthur Cox August 2023](#)

29 [Report of the Future of Media Commission From The Future of Media Commission Published on 12 July 2022 Last updated on 21 July 2022](#)

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. No alternative has thus far been proposed and there has been a collapse in the income from licence fees following a scandal in the public service broadcaster (RTÉ) earlier this year, which has necessitated a government bailout.³⁰

Coimisiún na Meán (The Media Commission) was established earlier in 2023 and has responsibility for the regulation of online and broadcast media.³¹ ICCL has requested that the Commission act to switch off algorithms on online platforms which promote extremism.³²

Public service media

Independence of public service media from economic interference

The failure to provide adequate funding and to reform the licence collection system has had an impact on the main public service broadcaster RTÉ.³³ As of January 2023, the government has not provided information on long-term

proposals for funding of public service broadcasting. The NUJ has viewed this action as an impediment to securing the future viability of public service broadcasting. As previously mentioned, the income generated from the licence fee has collapsed over the course of 2023, necessitating additional central government funding.³⁴

Online media

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

Following its establishment,³⁵ Coimisiún na Meán began developing binding online safety codes for content regulation. It is expected that these will be published in 2024.³⁶

30 [Breakingnews.ie Income from the TV licence down €16.4m since July, November 2023](https://www.breakingnews.ie/news/ireland/income-from-the-tv-licence-down-16-4m-since-july-november-2023)

31 [Coimisiún na Meán](https://www.coimisiunna-mean.ie/)

32 [Irish Council for Civil Liberties: A binding Code against toxic algorithms Submission to the Media Commission of Ireland September 4th 2023](https://www.civil liberties.ie/irish-council-for-civil-liberties-a-binding-code-against-toxic-algorithms-submission-to-the-media-commission-of-ireland-september-4th-2023)

33 [TV licence fee in place for RTÉ ‘utterly broken’, Dee Forbes tells committee January 2022](https://www.forbes.com/ireland/2023/01/12/tv-licence-fee-in-place-for-rte-utterly-broken-dee-forbes-tells-committee-january-2022/)

34 [RTÉ faces TV licence fee shortfall of more than €61m over two years as Government to give €16m interim funding Irish Independent October 2023](https://www.independent.ie/ireland/rt-e-faces-tv-licence-fee-shortfall-of-more-than-61m-over-two-years-as-government-to-give-16m-interim-funding-irish-independent-october-2023)

35 [Silicon Republic: Irish regulator seeks public feedback for online safety code July 2023](https://www.siliconrepublic.com/irish-regulator-seeks-public-feedback-for-online-safety-code-july-2023)

36 [Coimisiún na Meán: Online Safety](https://www.coimisiunna-mean.ie/online-safety)

Safety and protection of journalists and other media actors

Smear campaigns

In April, the deputy prime minister (Tánaiste) criticised the work of online investigative website *The Ditch*³⁷ in parliament³⁸ for its work on corruption. The Tánaiste said that the website's work was "political".³⁹ The comments were criticised by the National Union of Journalists.

Rules and practices guaranteeing journalist's independence and safety

A draft bill to amend defamation laws was published in 2023.⁴⁰ The bill has completed pre-legislative scrutiny⁴¹ and it is expected that the revised bill will be published in 2024.

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 (MEG), aimed at improving the safety of media workers. This is a joint initiative of An 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. MEG has also established a reporting system for profession related-attacks against media workers.

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

It is expected that the amended defamation bill will deal with some elements of SLAPPs against journalists and others.

Confidentiality and protection of journalistic sources (including whistleblower protection)

Head 16 of the General Scheme of the Garda Síochána (Powers) Bill⁴² provides for a general search warrant provision including access to electronic devices, as recommended by the Law Reform Commission (LRC). However, Head 15(6) of the draft Bill is not in line with the

37 [The Ditch April 2023: Niall Collins voted to sell public land bought by wife who's now negotiating sale of social housing on site](#)

38 [Ceisteanna ó Cheannairí - Leaders' Questions – Dáil Éireann \(33rd Dáil\) – Thursday, 27 Apr 2023](#)

39 [Irish Examiner April 2023 Tánaiste doubles down on The Ditch criticism](#)

40 [Draft General Scheme of the Defamation \(Amendment\) Bill From Department of Justice Published on 28 March 2023](#)

41 [An Comhchoiste um Dhlí agus Ceart Joint Committee on Justice: Pre Legislative Report on the Defamation \(Amendment\) Bill 2023. September 2023](#)

42 [Garda powers to be modernised and updated under new Bill from Minister Humphreys From Department of Justice Published on 14 June 2021](#)

LRC's recommendation that urgent applications should be made to the High Court, not the District Court. It is questionable whether such an application would be appropriate at the District Court level. Clarification on why LRC's recommendation was departed from in this instance is needed. As of December 2023 the revised version of the Bill remains unpublished.

Access to information and public documents

A review of Freedom of Information (FOI) legislation, which was commenced by the Department of Public Expenditure and Reform remains ongoing as of December 2023. A report on the initial stakeholder consultation was published in December 2022,⁴³ but it is unclear if any subsequent actions have been taken.

Checks and balances

Key recommendations

- *Ensure that the to-be-established Office of the Inspector of Places of Detention, Office of the Independent Examiner of Security Legislation, The Policing and Community Safety Authority and the Office of the Police Ombudsman are independent of executive interference in governance and operation.*
- *That relevant ministers and government departments should be obliged to respond to pre-legislative scrutiny reports when publishing amended legislation, alongside rationale for the acceptance/rejection of the recommendations of the pre-legislative report and details of changes, if any, made to the draft heads of bill.*
- *Publish plans for bringing parts IV & V of the 2022 Electoral Act into line with EU law.*

Process for preparing and enacting laws

Framework, policy and use of impact assessments, stakeholders/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process

While the practice of pre-legislative scrutiny of legislation has now become bedded into the parliamentary system, the recommendations produced are often ignored by the responsible Department when re-drafting the final version of the legislation.

43 [Review of the Freedom of Information Act Progress Update](#)

Independent authorities

Consistent concerns have been raised regarding the structures of the yet-to-be-established offices of the Independent Examiner of Security Legislation, the Policing and Community Safety Authority and the Office of the Police Ombudsman, all of which are provided for in the Policing Security and Public Safety Bill.⁴⁴ ICCL has raised concerns with regard to the proposed governance and structures of these bodies, which may limit their independence and impede their ability to operate effectively.⁴⁵

Electoral framework

Limitations on the right to vote

The right to vote for Irish citizens abroad lapses after 18 months.⁴⁶ No postal, embassy or online methods of voting are available to Irish citizens abroad except in very rare circumstances.⁴⁷ The right to vote for resident foreign nationals in Ireland is very limited, primarily restricted to local and European elections but not including general elections or referenda.⁴⁸ Members of the upper chamber of parliament (the Seanad) are not elected through universal suffrage.⁴⁹ 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. These are: Cultural and Educational (5 Members) Agricultural (11 Members) Labour (11 Members) Industrial and Commercial (9 Members) Administrative (7 Members). The Seanad returning officer (Clerk of the Seanad) maintains a register of bodies entitled to nominate candidates to the panels of candidates. To be eligible for registration as a nominating body, an organisation must be concerned mainly with and be representative of the interests and services of one or other of the panels. A body cannot be registered in respect of more than one panel. Organisations which are mainly for-profit organisations are not eligible for registration. The register is revised annually. There are two sub-panels for each panel: the Nominating Bodies sub-panel and the Oireachtas sub-panel. Each nominating body registered in respect of a panel may nominate a fixed number of candidates for that panel. These candidates comprise the nominating bodies' sub-panel of the different panels. Any four members of the newly elected Dáil or outgoing Seanad may nominate one candidate for any panel, but each member may join in only one nomination. These

44 [Policing, Security and Community Safety Bill 2023: Community Safety](#) Patrice McDonnell, Senior Parliamentary Researcher (Law) 20 February 2023

45 [Irish Council for Civil Liberties: Briefing for Second Stage Seanad Debate on Policing, Security and Community Safety Bill \(2023\)](#)

46 [The vote: returning emigrants warned of 18-month rule – The Irish Times](#) May 2018

47 [Registering to vote: Citizens Information](#)

48 [Right to vote: Citizens Information](#)

49 [Seanad: Citizens Information](#)

candidates form the Oireachtas (Parliament) sub-panel. A specified minimum number of members must be elected for each sub-panel.

The following persons may vote at a general election of panel members:

- Members of the incoming Dáil;
- Members of the outgoing Seanad;
- Members of county councils, city councils and city and county councils.

Each elector has only one vote in respect of each panel, even if he or she is qualified in more than one respect. The electorate numbers approximately 1,000 out of a population of 5 million.

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 received a degree, other than an honorary degree, from the universities 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.⁵⁰

The electoral roll is maintained and up-dated by the university concerned. Even within this limited pool of eligible electors, registration and turnout is very low.⁵¹ The exclusion of those with degrees from other 3rd level institutions was ruled to be unconstitutional in 2023⁵² and the government has announced plans to extend the franchise by 2025.⁵³

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

The recently established Electoral Commission has an oversight role in relation to the Electoral Register.⁵⁴ While Electoral Registers are managed and maintained by local authorities, the Electoral Commission may commission or carry out research in relation to: the accuracy and completeness of electoral registers; the maintenance of electoral registers; the processes relating to the compilation, maintenance and functioning of the electoral registers. There has long been evidence that the electoral register is inaccurate and contains duplicates.⁵⁵

The electoral register allows for online registration and pre-registration for 16 & 17 year olds,⁵⁶

50 [How the Seanad is Elected \(Upper House of Parliament\): Oireachtas Website](#)

51 [The Final Seanad Election: National University of Ireland](#)

52 [Laws limiting electorate for Seanad University Panels are unconstitutional; Oireachtas must legislate to expand franchise FLAC March 2023](#)

53 [Expanding Seanad franchise must be done by 2025 following case by UL graduate Limerick Post March 2023](#)

54 [Electoral Operations: Electoral Commission Ireland](#)

55 [Tipperary County Council urges voters to check the Electoral Register for 2024 elections | Independent.ie](#)

56 [Check the Register](#)

but only those living in Dublin can update their details online.⁵⁷

As part of their draft research programme, the Electoral Commission has begun to seek inputs from stakeholders. This programme will guide the Commission's work with respect to its options for examination in the 2024-2026 period.

Rules on political advertising and their enforcement

Rules on political advertising in the broadcast media fall under Rule 27 Guidelines for Coverage of General, Presidential, Seanad, Local & European Elections of the Broadcasting Authority of Ireland (BAI)⁵⁸ and are well enforced. The BAI will be subsumed into the recently established Media Commission in the coming years.⁵⁹

Part IV of the Electoral Act (2022)⁶⁰ grants powers to the Electoral Commission to regulate online political advertising. However, the provisions setting these powers were subsequently found to breach the eCommerce Directive of the European Union and are the subject of

ongoing TRIS procedures.⁶¹ As a result, this part of the Act has not been commenced. The government has not made clear how it intends to legislate to address the incompatibility with the eCommerce Directive.⁶²

The legal limit that can be spent by general election candidates, including on advertising, depends on the number of seats that are being contested in the constituency. The maximum that a candidate can spend on a Dáil election is:

- €45,200 per candidate in a five-seat constituency
- €37,650 per candidate in a four-seat constituency
- €30,150 per candidate in a three-seat constituency

If a candidate receives at least one quarter of the quota of votes for the constituency, they can claim back up to €8,700 in election expenses.

For presidential elections,⁶³ the spending limit is €750,000 per candidate. If a candidate is elected, or gets more than 25% of the quota

57 [Voter.ie](https://voter.ie): Register Check

58 [Broadcasting Authority of Ireland Rule 27 Guidelines Guidelines for Coverage of General, Presidential, Seanad, Local & European Elections](#)

59 [BAI prepares for future within new Media Commission](#): Irish Times January 2021

60 [Electoral Reform Act 2022, Section 119](#)

61 [European Commission TRIS Notification Detail Electoral Reform Bill 2022 \(Part 4 - sections 117 to 139 inclusive\)](#)

62 [Electoral Process Dáil Éireann Debate, Tuesday - 18 October 2022 Cian O'Callaghan TD](#)

63 [Presidential elections in Ireland](#): Citizens Information

in the election, they can be reimbursed up to €200,000 from the State.

In local elections, candidates are allowed to spend a limited amount of money on campaigning. This amount varies depending on the population size of the local electorate area and is between €13,000 and €9,750.⁶⁴

The rules on referenda spending are less clear, as the limits apply to acceptance of donations as opposed to spending.⁶⁵

The Standards in Public Office commission (SIPO) publishes detailed guidelines on rules governing advertising and spending in advance of electoral events.⁶⁶

Eligibility criteria and restrictions to be a candidate

To be a candidate for election to the Dáil or Seanad, you must be:⁶⁷

- An Irish citizen
- At least 21

You also cannot be both a member of the Dáil or Seanad and:

- A member of a local authority

- A member of the European Parliament or another senior official in an institution of the European Union
- A member of the Garda Síochána or a full-time member of the Defence Forces
- A civil servant, unless your contract specifically allows it
- Serving a prison sentence of greater than 6 months
- The President, a Senator, the Comptroller and Auditor General or a judge
- The Electoral Act 1992 also says that you cannot be a TD if you are ‘of unsound mind’.

To be eligible for election as President,⁶⁸ you must be an Irish citizen who is 35 or older. You must be nominated either by:

- At least 20 members of the Oireachtas (Dáil and/or Seanad)
- At least 4 local authorities
- Former or retiring Presidents can nominate themselves

64 [Local elections in Ireland: Citizens Information](#)

65 [Explanatory Note for Third Parties: SIPO](#)

66 [Elections | Guidelines & Information SIPO](#)

67 [Dáil Éireann: SIPO](#)

68 [Presidential elections in Ireland: Citizens Information](#)

You are eligible to be elected to a local authority if you are ordinarily resident in Ireland and you are at least 18 years old. You do not have to be an Irish citizen. You are disqualified from becoming a member of a local authority if you are:⁶⁹

- A member of the European Commission, Parliament or Courts
- A member of Dáil Éireann or Seanad Éireann
- An Ceann Comhairle (the Chairman of the Dáil) or an Cathaoirleach (the Chairman of the Seanad)
- A member of an Garda Síochána or a full-time member of the Irish defence forces
- A judge
- A member of the Court of Auditors of the European Communities
- The Comptroller and Auditor General
- A civil servant - where it does not specifically state in your contract of employment that you may be a member of a local authority
- A person employed by a local authority and is not the holder of a class, description

or grade of employment designated by order under section 161(1)(b) of the Local Government Act 2001

- Employed by the Health Service Executive and at a grade or of a description of employment designated by order of the Minister for Health and Children
- Currently imprisoned for a term longer than 6 months
- A person who has failed to pay local authority charges
- A person who has failed to comply with an order of a court to pay money due to a local authority
- A person who has been convicted of fraud or dishonest dealings affecting a local authority, corrupt practice or acting while disqualified

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).⁷⁰ The draft Bill went through an extensive period of pre-legislative scrutiny, ending in July 2021. A key component of this legislation is the establishment of an Electoral Commission,

69 [Local elections in Ireland: Citizens Information](#)

70 [The General Scheme of the Electoral Reform Bill \(2020\)](#)

an institution which Ireland is unusual in a comparative sense for not having. As part of the pre-legislative scrutiny process, a number of academics and members of civil society called on the government to equip the to-be-established commission with powers to address and counter dis/misinformation.⁷¹ 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 the Electoral Commission,”⁷² 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.⁷³ This last-minute addition means that civil society groups were unable to assess the provisions, very little time was given in parliament for the examination of the measures⁷⁴ and they remain subject to infringement procedures by the European Commission.⁷⁵ The rushed and unsatisfactory manner in which the legislation was passed was subject to public commentary⁷⁶ and objections from parliamentarians.⁷⁷

The aforementioned infringement procedures meant that while the Act has been passed by the houses of Parliament, the sections which attempt to combat mis/disinformation and regulate political advertising are un-commenced.⁷⁸ As of December 2023, the government has not brought forward proposals to address the incompatibility of the Act with EU law.

The as yet un-commenced provisions mean the Electoral Commission will have explicit powers in respect of its monitoring and investigatory functions, including a power to issue during an electoral period:

- a take-down notice
- a correction notice
- a labelling order
- an access-blocking order, or
- a notice requiring any operator or host of any online platform to publish a statement

71 [Joint Committee on Housing, Local Government and Heritage debate - Tuesday, 2 Feb 2021](#)

72 [Joint Committee on Housing, Local Government & Heritage Report on Pre-Legislative Scrutiny of the General Scheme of the Electoral Reform Bill 2020 July 2021](#)

73 [Government’s Electoral Reform Bill ‘incompatible’ with EU directives on online advertising: Irish Examiner July 2022](#)

74 [Liam Herrick: Democracy may not die by guillotine, but it’s seriously injured: Irish Examiner July 2022](#)

75 [Statement on the Electoral Reform Bill From Department of Housing, Local Government and Heritage Published on 22 July 2022](#)

76 [Approach to Electoral Reform Bill raises serious questions over Government’s respect for rule of law Irish Examiner July 2022](#)

77 [Dáil Éireann debate - Wednesday, 13 Jul 2022 Electoral Reform Bill 2022: From the Seanad](#)

78 [Proposals to enhance and protect the integrity of elections published From Department of Housing, Local Government and Heritage Published on 10 June 2022](#)

informing all affected end-users of the manipulative or inauthentic behaviour or the use of an undisclosed bot.

Complementary to its enforcement powers, the Electoral Commission may publish codes of conduct in consultation with an Advisory Board and a Stakeholder Council, which may apply to online platforms, candidates, political parties, third parties and/or media outlets. It is envisaged that such codes of conduct would apply during an election or referendum campaign period only.

Separately, online platforms will be required to report possible disinformation, misinformation or manipulative / inauthentic behaviour in the online sphere to the Electoral Commission in the lead up to an electoral or referendum period. They will also be required to put in place a notification mechanism for users to report possible disinformation relating to online electoral information and misinformation relating to online electoral process information.⁷⁹

In submissions to the European Commission on the infringement process, ICCL and Technology Ireland⁸⁰ set out in detail the impact that these provisions would have on the free expression of political opinion. This is because the regulations apply not only to “electoral process information”, i.e. information regarding the holding/running of the electoral

event, but also “online electoral information” which includes “any online content relating to:

- i) a candidate in an election
- ii) a political party that has candidates standing in an election
- iii) issues that are of relevance to an election, or
- iv) issues that are of relevance to a referendum

Head 144 of the Bill stipulates that any content which constitutes “disinformation” with respect to the above topics can be removed or otherwise restricted. “Disinformation” is defined in the Bill as:

“any false or misleading online electoral information that—

- (a) may cause public harm, and
- (b) by reason of the nature and character of its content, context or any other relevant circumstance gives rise to the inference that it was created or disseminated in order to deceive;”

In this sense, the power of the Commission to limit the freedom of expression of individuals is

79 [Dáil Éireann An Bille Um Athchóiriú Toghcháin, 2022 Electoral Reform Bill 2022 Leasuithe A Rinne An Seanad Amendments Made By The Seanad](#)

80 [European Commision TRIS Notification Detail Electoral Reform Bill 2022 \(Draft Heads of Bill - new Part 4A\)- Contributions](#)

based on the Commission's own interpretation of what is;

1. Misleading
2. Of a nature which "may" cause public harm
3. Deceitful in nature

It is the contention of ICCL that granting the Electoral Commission such wide-ranging powers as this creates the potential not only for a chilling effect on the free expression of opinion, but also may create scenarios where statements, utterances or other online publications incorrectly classified as "misinformation" are effectively excluded from the electoral discourse.

Civic space

Key recommendations

- *Remove restrictions on funding for CSOs which prevent fundraising for advocacy work through amendment of the 1997 Electoral Act.*
- *Instruct the Charities Regulator to revise their advice on political advocacy for charitable organisations.*
- *Progress and enact the Charities (Amendment) Bill without further delay.*

Freedom of association

Involuntary dissolution

Concerns have been expressed by organisations that proposed powers to be granted to the Charities Regulator as part of the draft Charities (Amendment) Bill (2022) would allow for deregistration for minor breaches of the 2009 Charities Act. In their pre-legislative

scrutiny report, the parliamentary committee examining the legislation requested that these provisions be amended.⁸¹ The amended legislation was published in December 2023.⁸² These concerns seem to have not been addressed (subject to detailed legal analysis) through the revision of the Bill as per head 30(c).⁸³

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

81 [Report on the Pre-Legislative scrutiny of the General Scheme of the Charities \(Amendment\) Bill, 2022](#)

82 [Charities \(Amendment\) Bill 2023](#)

83 [Charities \(Amendment\) Bill \(2023\)](#)

Concerns have been expressed that the Charities Regulator has gone beyond its remit in determining what work can be deemed to be beyond the charitable purpose and/or “political” in nature. This has been, in part, driven by a response to hostile complaints. The Regulator published updated advice on political activity in late 2021, which further narrowed the scope of “political” activities of charities. In their pre-legislative scrutiny report on the Charities (Amendment) Bill (2022), the parliamentary committee examining the legislation requested that this advice be amended.⁸⁴

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

The definition of “political purposes” as contained in the 1997 Electoral Act prohibits any person or organisation based in Ireland from accepting sizable or any international donations to assist them in campaigning on 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 1997 Electoral Act, these donation restrictions apply to civil

society advocacy work at all times, and not just when advocating an election or referendum result. The basic freedom of individuals and organisations in Ireland to raise funds and campaign on issues that affect them are constrained by the Electoral Act in ways that violate their constitutional rights, EU law and their freedom of assembly and association. This situation has a considerable chilling impact on funders, who fear that their donations may breach electoral law.⁸⁵ The government has committed to reviewing the act and this task has fallen to the Electoral Commission to complete. There has been no indication of when this review will commence.

Freedom of peaceful assembly

Policing practices, including dispersion of protests, use of force

Following protest⁸⁶ and riots⁸⁷ in Dublin in September and November 2023, the government sought to enhance equipment available to gardaí to manage protests.⁸⁸ There were also calls for greater clarity on the levels of acceptable force⁸⁹ which could be used to restore order. ICCL and others have consistently opposed⁹⁰ the proposals to equip gardaí with

84 [Report on the Pre-Legislative scrutiny of the General Scheme of the Charities \(Amendment\) Bill, 2022](#)

85 [Coalition For Civil Society Freedom Statement on the Electoral Act ICCL 2018](#)

86 [Far-right posts featuring mock gallows outside Dáil remain online despite Garda investigations](#) The Journal.ie September 2023

87 [‘Unfolding chaos’: Watch how Dublin’s riots developed](#) RTÉ December 2023

88 [Irish riot police to be armed with Tasers](#) BBC November 2023

89 [GSOC rejects claims it may have role hindering policing](#) RTÉ November 2023

90 [Rights group ‘strongly opposed’ to gardaí being granted facial-recognition technology](#) The Journal.ie May 2022

facial recognition technology, as was mooted as a response⁹¹ to the riots. A narrative of “excessive” oversight of policing leading to a fear of deploying force has also entered public discourse,⁹² ICCL has sought to oppose this narrative as Ireland has had historically weak policing oversight.⁹³ Proposals to limit the ability of protesters to assemble in the vicinity of parliament has also been opposed by civil society.⁹⁴

Surveillance of protests

Following riots in Dublin in November, calls have been made to expedite the roll-out of facial recognition technology (FRT) for policing in order to assist in the identification of agitators and others engaged in criminal activity.⁹⁵ Previous proposals for legislating for the use of this technology were deferred earlier in 2023.⁹⁶ ICCL has opposed the use of this technology in Ireland.⁹⁷ In December 2023 the Department of Justice published a draft bill for the use of FRT.⁹⁸

Freedom of expression and of information

Rules on hate speech and their enforcement

The Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022 is continuing its passage through parliament but has not progressed since June 2023.⁹⁹

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

Over the course of 2023, ICCL conducted a large-scale survey of the voluntary and community sector and their experiences of advocacy. The survey found that almost 40% of respondents have restricted their advocacy efforts for fear of loss of government funding. This rises to 50% for organisations involved in homelessness and/or addiction services. There is a perception within the sector that speaking out on controversial issues or opposing government policy can result in implicit or explicit threats to withdraw funding. A full report on this work will be published in Q1 of 2024.¹⁰⁰

91 [‘Huge distortion’ over advent of facial recognition technology, Drew Harris says](#) BreakingNews.ie November 2023

92 [Gardaí ‘reluctant’ to use powers in case of GSOC investigation](#) Irish Examiner December 2023

93 [Dublin riots must not be an excuse to magic away legal and human rights](#) Irish Times November 2023

94 [Gardaí prepare ‘mini sterile zone’ around Leinster House for budget day](#) Irish Times October 2023

95 [McEntee has ordered officials to beef up facial recognition laws in response to Dublin riot](#) The Journal.ie November 2023

96 [Government to introduce standalone bill on facial recognition technology](#) Irish Legal News June 2023

97 [Criticism of FRT plans by Government TDs welcomed by ICCL](#) Irish Council for Civil Liberties April 2023

98 [Minister McEntee receives Cabinet approval for draft Facial Recognition Technology Bill.](#)

99 [Criminal Justice \(Incitement to Violence or Hatred and Hate Offences\) Bill 2022](#)

100 [ICCL “Free to Advocate” Survey: Initial Findings August 2023](#)

Restrictions on access to information

A review of freedom of information legislation was commenced in 2021 but has not progressed in over 12 months.¹⁰¹

Online content regulation

The Online Safety and Media Regulation (OSMR) Act was signed into law on December 10, 2022¹⁰² leading to the establishment of Coimisiún na Meán in March 2023.¹⁰³ The Commission is currently developing binding online safety codes for video sharing platforms.¹⁰⁴ ICCL has argued that as part of these codes, the Commission must address algorithmic amplification.¹⁰⁵

Attacks and harassment

Intimidation / negative narratives / smear campaigns / disinformation campaigns

In 2023 there was a sustained low-level attempt to discredit and call into question the role of civil society in public discourse in Ireland in both media and in commentary from some

politicians. This has mostly taken the form of the “foreign NGO” trope and is mostly related to migration and LGBT issues. Online harassment of some organisations has become so acute that they have removed themselves from online platforms such as X.¹⁰⁶ A significant report by the Institute for Strategic Dialogue: “Uisce Faoi Thalamh”¹⁰⁷ was published on the mis/disinformation media landscape in Ireland in 2023, which examined some of the issues raised with respect to attacks on NGOs.¹⁰⁸

101 [Review of the Freedom of Information Act Progress Update](#)

102 [President Higgins signs Online Safety and Media legislation into law December 2022](#)

103 [New media regulator, Coimisiún na Meán, formally established March 2023](#)

104 [Coimisiún na Meán seeks views for developing Ireland’s First binding Online Safety Code July 2023](#)

105 [Media Commission urged to switch off Big Tech’s toxic algorithms Irish Council for Civil Liberties September 2023](#)

106 [Why we decided to leave Twitter/X - Belong To - LGBTQ+ Youth Ireland October 2023](#)

107 [Uisce Faoi Thalamh: Topic Analysis - ISD November 2023](#)

108 [Major analysis shows how Irish disinformation ecosystem has been ‘co-opted by far-right actors’ The Journal.ie November 2023](#)

Disregard of human rights obligations and other systemic issues affecting the rule of law environment



Key recommendations

- *Progress the Draft Heads of Bill to amend the Mental Health Act, 2001 as a matter of urgency.*
- *Expedite the development of a new system for accommodating asylum seekers and conduct an investigation into the status of those minors reported missing from state care.*
- *Ratify the Optional Protocol (OPCAT) and amend the Inspection of Places of Detention Bill (which seeks to implement OPCAT) to ensure that direct provision centres and other congregated settings are subject to independent human rights focused inspections.*

Systemic human rights violations

Widespread human rights violations and/or persistent protection failures

The Assisted Decision-Making (Capacity) Amendment Bill¹⁰⁹ 2022 which amended the Assisted Decision-Making (Capacity) Act 2015 was fully 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 remain the only cohort of people deprived of the rights extended under this new legislation

(including legally binding Advance Healthcare Directives). The government has stated its intention to remedy this discriminatory omission in the reform of the Mental Health Act, 2001.

In February 2023, the United Nations Committee on the Rights of the Child published their concluding observations¹¹⁰ on Ireland's compliance with the UNCRC. 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:

109 [Assisted Decision-Making \(Capacity\) \(Amendment\) Act 2022](#)

110 [CRC/C/IRL/CO/5-6](#) United Nations Committee on the Rights of the Child Concluding observations on the combined fifth and sixth periodic reports of Ireland

(i) An explicit prohibition of the practice of placing children with mental health issues in adult psychiatric units;

(ii) 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)¹¹¹ in the State. The Mental Health Commission's report shows there are serious deficits in CAMHS which are resulting in dysfunctional 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 in CAMHS. The Mental Health Commission has outlined 49 recommendations in its report including the immediate and independent regulation of CAMHS through the legislative reform of the Mental Health Act, 2001.

Despite all the repeated pressing concerns raised in 2023, particularly around youth mental health, the Draft Heads of Bill to amend the Mental Health Act, 2001 has remained in priority drafting for the Autumn 2023 Government

Legislation Programme and has not progressed to priority publication. The Draft Heads of Bill to amend the Mental Health Act, 2001 should be progressed as a matter of urgency.

Impunity and/or lack of accountability for human rights violations

In December 2023 an investigation uncovered that 62 children seeking international protection in Ireland have disappeared from state care since 2017. Seventy-five percent of those missing have not been subject of missing person appeals. The report has raised serious questions regarding trafficking and exploitation of vulnerable children.¹¹²

Other systemic issues

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.¹¹³ There is extensive evidence of a failure within the criminal justice system in this case. The current deputy prime minister said that the case "reveals shocking malpractice and dysfunction in the criminal justice system".¹¹⁴

111 [Independent Review of the provision of Child and Adolescent Mental Health Services \(CAMHS\) in the State](#) Inspector of Mental Health Services July 2023

112 [Over 60 migrant children missing after disappearing from State care](#) The Journal.ie December 2023

113 [Justice for Shane](#)

114 [Dáil Éireann debate - Wednesday, 3 May 2017 Leaders' Questions](#)

In 2018 and 2019, both houses of the Irish parliament^{115,116} voted to hold a public inquiry into the circumstances surrounding Mr. O’Farrell’s death; this, however, has not been progressed by the government. In its place, the government commissioned a retired district court Judge to carry out a scoping exercise, conducting a preliminary review to ascertain whether there were any circumstances surrounding the death of Mr O’Farrell which required further inquiry beyond those already carried out.

The scoping exercise report was received by the Minister for Justice and the O’Farrell family in 2022 and published in 2023.¹¹⁷ The terms of reference asked the District Court judge to consider the outcome or reports of investigations or inquiries that have already taken place, with a particular emphasis on the reports of the investigations carried out by GSOC and the Independent Review Mechanism. It appears that the Judge was not provided with the statutory GSOC reports which are within his terms of reference (nor did he request them), nor was he provided with the report of the Independent Review Mechanism which the Department of Justice refused to waive privilege over. The family believes that this is an incomplete and deeply

flawed report, a sentiment that is shared across the political spectrum^{118,119} as evidenced by responses in parliament to its publication.¹²⁰ The family of Mr. O’Farrell continues to demand that the full Garda Síochána Ombudsman Commission (GSOC) public interest report into the killing is provided to them and that the parliamentary decision to hold a full public inquiry is respected in order to vindicate their rights under Article 2 of the ECHR.

115 [Dáil Éireann debate - Thursday, 14 Jun 2018 Death of Shane O’Farrell: Motion \(Resumed\) \[Private Members\]](#)

116 [Seanad Éireann debate - Wednesday, 13 Feb 2019 Death of Shane O’Farrell: Motion](#)

117 [Report of Scoping Exercise in relation to the death of Shane O’Farrell](#)

118 [Helen McEntee under pressure after ‘whitewash’ report into hit-and-run death of Shane O’Farrell | Independent.ie](#)

119 [Final Report of the Independent Scoping Exercise into the Circumstances surrounding the Death of Mr. Shane O’Farrell: Statements](#)

120 [Final Report of the Independent Scoping Exercise into the Circumstances Surrounding the Death of Mr. Shane O’Farrell: Statements – Seanad Éireann \(26th Seanad\)](#)

Contacts

Irish Council for Civil Liberties (ICCL)

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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The Civil Liberties Union for Europe

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 19 national civil liberties NGOs from across the EU.

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