



FUNDAMENTAL RIGHTS  
AND THE RULE OF LAW

## **Ireland - Virtual country visit report**

28-29 June 2021



European Economic  
and Social Committee

## Report on the virtual visit to Ireland 28-29 June 2021

Six members took part in the virtual country visit to Ireland. The delegation met with several representatives of civil society, specifically civil society organisations (CSOs), social partners and the media, on the one hand, and the Irish authorities on the other. The main aim of this report is to faithfully reflect and reproduce the views of civil society.

### 1. Fundamental rights related to social partners

Participants explained that **social dialogue** had collapsed in 2009 due to the financial crisis. Consultation had only tentatively restarted in 2014, when Ireland rejoined the European Semester, and with the creation of the "Labour Employer Economic Forum" (LEEF) in 2016. Within a few months of the onset of the pandemic, an agreement on a return-to-work protocol had been negotiated within the LEEF. Social partners wanted to build on the success of this renewed and expanded social dialogue and the positive result seemed to have strengthened the government's commitment to the process. Government engagement could still be improved with regard to issues outside the LEEF: for example, once the Protocol on Ireland/Northern Ireland entered into force participants felt that the government had stopped engaging with regard to the implications of Brexit for workers. In relation to consultation as part of the European Semester, trade unions criticised the tightness of the timeframes, and felt that the process should be set up to allow for presentation of alternative narratives and proposals, instead of just reactions to government proposals.

It was noted that **collective bargaining** coverage was fairly low, and that this was being examined by the LEEF. Digital platform workers were outside the scope of agreements, and in general they were not members of trade unions. Their employment status was disputed. The LEEF had a number of subgroups looking at issues such as pensions, housing, childcare and discrimination, but many subgroups were yet to become active. In Ireland, social dialogue did not only include social partners, but encompassed a broader dialogue with civil society organisations, and relationships between stakeholders were good.

Gender **equality** and gender pay gap reporting were a significant area of focus. A gender pay gap reporting Bill was before the Parliament at the time of the visit. With regard to disability, the LEEF subgroup focused on access to the labour market, incentives, subsidies and flexible work arrangements. There was strong social partner involvement in the strategies for LGBTI+ inclusion, Traveller and Roma inclusion, and in the consultations on the development of the National Action Plan Against Racism.

The Irish Trade Union Congress covered the entire island, and both jurisdictions. Some participants called for further discussion of the human rights **implications of Brexit** for people living and working in the island of Ireland. Specifically, with regards to labour rights, the ending of freedom of movement posed significant problems to workers, in particular for "frontier workers", i.e. people living in the Republic of Ireland but working in Northern Ireland: they needed frontier permits to work legally in Northern Ireland, but there was a serious lack of knowledge about the legal requirements. Despite the Protocol on Ireland/Northern Ireland participants were concerned that Brexit could result in divergences between the rights of workers in the Republic of Ireland and in Northern Ireland.

Participants expressed concerns about a hostile environment from Great Britain and Northern Ireland towards EU migrants in the context of Brexit. EU-migrants having difficulties documenting their status, such as Travellers and homeless people, were at risk of losing their rights. Despite the Protocol on Ireland/Northern Ireland, which ensures no hard border on the island of Ireland, participants expressed concern that one possible consequence of Brexit was that what had previously been an invisible border could "harden" with regard to freedom of movement for certain groups of people, and this could result in some people inadvertently finding themselves in an irregular situation when crossing the border. Participants also mentioned concerns about EU citizens being subject to racial profiling during immigration checks in Northern Ireland, and a risk of detention if they could not prove their status. They also expressed the hope that the EU would continue to engage with people in Northern Ireland.

## 2. **Freedom of association and assembly**

Generally speaking, participants considered the protection of human rights in Ireland to be strong, albeit with some challenges. For instance, over the past year, the COVID-19 pandemic had entailed very difficult trade-offs between human rights and restrictive measures to avoid the spread of the virus.

With regard to **freedom of association**, participants' main concern was the unintended effects of the Electoral Act on CSOs: the Act governed donations to political parties, but the rule limiting private and foreign donations also applied to CSOs. The government had expressed its intention to address these issues and discussions were ongoing on amending this provision in the law. There were also sometimes issues related to the destination of funding: for instance, public funding was received for providing services and not for developing advocacy campaigns, making resources for advocacy more limited. Organisations with a generic mission such as "protection of human rights" were not considered charities, which had a negative effect on their access to donations and prevents tax exemption of donations. The need for tax exemptions could also lead to some not-for-profit organisations scaling back advocacy work. Some organisations had experienced a significant drop in their income due to the pandemic and its limitation of fundraising opportunities. To obtain emergency funding from the state, an organisation's income needed to have dropped by 25%.

CSOs felt they had good access to, and were properly **consulted** by, the authorities, but said they would like an expanded social dialogue like in the past. During the pandemic, consultations had moved online, a trend which one participant warned could lead to the exclusion of people without access to digital infrastructure.

Participants explained that **Brexit** had not yet impacted most CSOs. Some organisations, for instance in the field of sport, encompassed the whole of Ireland, while others were divided. However, they were expecting difficulties to come in relation to EU funds for cross-border activities.

The Constitution granted strong protection to **peaceful protest**. During the pandemic, measures had been introduced limiting movement and participation in events, and no exceptions had been made to enable participation in socially distanced protests. This had led to random application of the rules: in some cases protestors had been threatened with prosecution or fined for taking part in or organising protests, whereas others had been allowed to proceed without interference.

### 3. **Freedom of expression and freedom of the media**

Participants emphasised that the country had a **very healthy media environment**, both offline and online, and that public trust in the independence of Irish journalism was high.

The main concern mentioned was the **law on defamation** and the high cost of libel. The legislation had been criticised for being very restrictive, both by the European Court of Human Rights and by the European Commission in its rule of law report. The high cost of libel restricted media in their role as watchdogs and their ability to reveal matters of public interest. Freedom of the media legislation is under review.

**Concentration of ownership**, despite improvements, still presented a concern in Ireland, as the government was not using all of its existing tools to ensure greater media diversity. In addition, the media market was exposed to a large volume of international English-language content, which impacted the sustainability and operability of media based in the country. Brexit had shown the importance of having independent media in the country, in order to offer an Irish perspective on arising issues. Additionally, the advertising market constituted an issue of concern, because the majority of the income from the sector was flowing towards the high-tech companies.

Participants mentioned the need for EU regulation of social media platforms that would not interfere with freedom of expression, but would address the issues of hate speech, online harassment, disinformation and fake news. Ireland would be one of the eight national hubs of the European Digital Media Observatory, helping to collect and analyse data to help counter disinformation.

With regard to online harassment, participants mentioned **threats to journalists, particularly on social media**, and noted that such attacks were often directed against female journalists. Furthermore, threats to journalists covering Northern Ireland were on the rise.

One participant called for better protection of freedom of association and collective bargaining rights for journalists to ensure better working conditions. The idea of greater investment and training in journalists was raised, including public money for **quality journalism**. Concerns were also expressed concerning the fact that the print and broadcasting sectors did not reflect the diversity of the Irish society, and that Irish-language broadcasts were less well remunerated.

#### 4. **The right to non-discrimination**

Participants mentioned that **legislation** on anti-discrimination needed to be updated and emphasised that, although the government had sent promising signs in this regard, there was a need for timely implementation and proper resourcing. Cross-cutting issues include the need for early intervention to avoid exclusion of vulnerable groups and inclusion with regard to education, housing, access to social services and employment. Social partners and CSOs had a key role in promoting anti-discrimination at work, and also in society more broadly. Many participants called for increased and disaggregated data to better inform policy. Participants found it regrettable that vulnerable groups were not mentioned in Ireland's National Recovery and Resilience Plan 2021, as they had been particularly hard hit during the COVID-19 pandemic.

The pandemic had disproportionately affected **Roma and Travellers** and exposed the difficulties that these communities have in accessing health services and adequate housing. Participants welcomed the recognition of Irish Travellers as an ethnic group, the legislative developments in relation to hate crime and hate speech, and the proposed Nation Action Plan Against Racism. However, discrimination remained relatively high in the country, and the participants emphasised the need to translate policy into tangible action. They highlighted a need for a national educational strategy for Travellers including targets and timelines to counter early school leaving and reduced hours.

Participants noted that there had been significant progress in **LGBTIQ rights** lately, particularly with the introduction of marriage equality. However, hate crime legislation and education on relationships and sexuality needed updating. Online hate remained prevalent and 70% of LGBTIQ young people felt unsafe at school. A clear and immediate ban on conversion therapy was needed, as was progress on gender recognition for under-18s and non-binary people. Difficulties in accessing mental health services before the age of 18, without parental consent, remained a problem. Furthermore, a participant expressed concern about the EU-wide situation for LGBTIQ rights, and called on the EU to protect them.

The publication of a White Paper on direct provision (the system for accommodation of **asylum** seekers) was welcomed. The White Paper expressed the intention to establish an independent inspection regime in the welcoming centres. Another positive aspect was the government's announcement that the situation of undocumented migrant children would be regularised. A referendum in 2004 removed the right of children born in Ireland to foreign parents to get Irish citizenship at birth. This meant that these children were not registered and no longer have the right to benefits. The inability for undocumented workers to access employment tribunals was also an issue.

**Child poverty** disproportionately impacted single-parent families, Roma and Travellers, households with persons with disabilities etc. COVID-19 had exacerbated existing forms of poverty, and in particular food poverty. Participants welcomed the government's announcement of a revision of the equal status policy aiming at recognising socioeconomic status as a potential ground for discrimination. The use of reduced timetables in schools was also referred to as an element of concern, as it generally disproportionately impacted certain groups of children, affecting their well-being and mental health.

Ireland had ratified the Council of Europe Istanbul Convention for the elimination of violence against women. However, the services provided to victims of **domestic and sexual violence**, including online

violence and abuse, were limited, in particular in light of the numbers of reported cases. Court system reforms were needed to avoid secondary victimisation.

Experiences of poverty and exclusion from education, transport, employment, housing were still common among **persons with disabilities**. Social cohesion was key to avoid exclusion, as was the implementation of the UN Convention on the Rights of Persons with Disabilities. The establishment of a Parliamentary Committee on Disability Matters in 2020 was applauded. Participants felt that early intervention should be promoted because it was crucial in inhibiting further debilitation. Unfortunately, Ireland still placed people in institutions, regardless of the calls to deinstitutionalise.

**Older people** experienced many of the same challenges mentioned above and suffered from cumulative disadvantages. Stereotypes on ageing were described as a significant challenge to equality, as was a lack of data on the diversity of older peoples' situations. A digital inclusion strategy was needed, particularly in the context of the pandemic, where lack of skills prevented access to the public debate.

**Homelessness** was said to lead to increased discrimination and marginalisation. Most homeless persons were already in a situation of marginalisation before they experienced homelessness. A good protection system was in place, but it was overly complex and bureaucratic and required significant documentation, which could pose challenges to homeless people who were not able to provide documents. It also presented challenges in terms of access to education and services.

Participants called for better support for people to help them defend their rights in the area of anti-discrimination, including through effective **reparation**. They also called for a more explicit statutory duty for public bodies to consider anti-discrimination when performing their jobs. Participants considered that the EU should strengthen the impact of equality bodies, with the support of the EESC.

## 5. The rule of law

Generally, participants considered that the rule of law functioned well in Ireland. With regard to **access to justice**, some participants mentioned high legal costs, and problems relating to access to legal aid. The means test was set at a level that did not reflect real income levels in Ireland, precluding most from receiving legal aid. Furthermore, the exclusions from coverage were too broad, as legal costs linked to e.g. tribunals, quasi-judicial bodies, and labour courts were excluded. A recent review recommended allowing for multi-party action, but no concrete progress had been made. Court organisation also needed to be improved, although progress had been made due to COVID-imposed rationalisations.

**Corruption** affected Ireland more than the best performing countries on the corruption perception index, although adequate safeguards against abuse of power were in place. Recommendations issued in 2012 by the Mahon Tribunal (established in 1997 to look into allegations of corrupt payments to politicians) partly been implemented, including safeguards for conflict of interest, and the establishment of a committee responsible for declaration of interests and gifts received and donations to political parties and politicians, but some recommendations, for example on liabilities, still need to be implemented. There were no room for complacency, according to the participants. One participant expressed concerns about implementation of the Lobbying Act and the Act protecting whistle-blowers, as well as the phenomenon of "the revolving door" between the public and private sectors.

The **absence of a proper and rigorous human rights analysis of COVID-19 related legislation** was mentioned. This could also be related to the lack of a human rights and equality committee within the Parliament. The prisoner complaint system had not been operating properly over recent years, which had caused particular challenges in terms of reporting inmates' needs or violations of rights during the pandemic. The situation was amplified by the fact that external monitors like CSOs were not allowed to access prisons during the pandemic.

END



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