



Unit 11, First Floor, 34 Usher's Quay
Dublin 8

T: +353 1 912 1640

E: info@iccl.ie

Mr. James Lawless TD
Chair of the Joint Committee on Justice,
Joint Committee on Justice,
Leinster House,
Dublin 2

CC:
Members of the Joint Committee on Justice

15 December 2021

Calling for a wider involvement of civil society in the development of hate crime legislation in Ireland

Dear Mr. Lawless,

We are delighted that the pre-legislative scrutiny of the Criminal Justice (Hate Crime) Bill 2021 started on November 17 at the Joint Committee on Justice. The Coalition against Hate Crime Ireland (CAHC) – coordinated by ICCL - has long campaigned for the introduction of legislation on hate crime and we therefore welcome this legislative process.

It is positive that stakeholders from groups and communities directly impacted by hate crime and extreme hate speech as well as prominent academics in this field were invited to the Hearing.

In August 2021, ICCL made two written submissions on the General Scheme of the Bill, one as the coordinators of the Coalition Against Hate Crime Ireland composed of 20 organisations representing commonly targeted groups, as well as academics and researchers working on cross-community experiences of, and responses to, hate crime, and the other as an individual civil society organisation.

The Hearing that took place on November 17 mainly focused on hate crime, particularly on the evidential threshold for the hate element. There are several other important matters raised in the Coalition's submission and those of its members that were not given adequate (or any) time. This includes the elaboration of a clear rationale for the inclusion of protected characteristics and particular offences, as well as a wider discussion on key

elements of the incitement to hatred component including the foreseen defences. We encourage you to give proper consideration to these issues in the drafting of your report on the pre-legislative scrutiny process. It's vital that international and regional human rights standards are adhered to while taking into account the specificities of the Irish context and the needs of the groups and communities experiencing hate crime and incitement to hatred in the country.

We note with regret that so few voices were heard at the Committee's public hearing on this important legislation. We call for a wider involvement of civil society organisations and impacted groups and communities at all future stages of the development of this legislation as well as during the process of elaborating future implementation measures.

These voices include the groups and communities impacted by hate speech and hate crime that made submissions to the Committee but were not invited to the Hearing. We also note with regret that ICCL was not invited to the Hearing, neither as coordinators of the CAHC nor in our individual capacity. We believe such wider consultation is particularly important in light of the fact that the consultation carried out by the Department of Justice in advance of this Bill focused primarily on the issue of hate speech rather than hate crime.

The Coalition Against Hate Crime Ireland is a key stakeholder in the consideration of this Bill, and its joint submission reflects the views of 20 member organisations. The Coalition has the capacity to explore shared and intersectional experiences of hate crime, and to act as a unified voice in the Irish context. Different groups and communities experience hate crime in different ways. For this reason, it is essential that a wide range of civil society groups are involved from the outset of the process, to ensure that the specific needs of different groups are heard and are met within the legislation. Legislation must respond to the lived experiences of people who experience hate crime in each country.

In relation to the prohibition of incitement to hatred, we believe that in our individual capacity, ICCL is uniquely placed to address concerns in relation to freedom of expression which were given very little time during the Hearing. Clarity and precision are vital to ensure that all persons understand where the threshold is between criminal and non-criminal speech and behaviour. At the same time, it is vital to ensure that other forms of hate speech, which might cause deep offence but do not reach a criminal threshold, are combated by other means, including education, monitoring, alternative remedies and an enabling environment for powerful counter-speech. ICCL is also uniquely placed to raise issues in the Bill concerning the right to a fair trial and rule of law principles of foreseeability and clarity.

We hope that the concerns we raised in our submissions are reflected in your report and we hope to have the opportunity to share these concerns with members of the Oireachtas at future stages of the legislative process.

Yours sincerely,

Liam Herrick



Executive Director - Irish Council for Civil Liberties

on behalf of the Coalition Against Hate Crime Ireland

The Coalition Against Hate Crime Ireland is comprised of: Age Action Ireland; BeLonG To; Doras; Dr. Lucy Michael (academic researcher); European Centre for the Study of Hate, University of Limerick; Immigrant Council of Ireland; Inclusion Ireland; Independent Living Movement Ireland; Irish Council for Civil Liberties (ICCL); Irish Network Against Racism (INAR); Irish Traveller Movement (ITM); LGBT Ireland; LGBT Travellers; Nasc – Migrant and Refugee Rights Centre; National LGBT Federation; National Traveller Women's Forum; National Youth Council of Ireland (NYCI); Pavee Point Traveller & Roma Centre; Sports Against Racism Ireland (SARI); Transgender Equality Network Ireland (TENI)