



Monitoring rights during the pandemic  
3-9 October

## **COVID-19-RELATED ADVOCACY WORK**

### **Garda searches at private gatherings**

We have questioned the legality of gardaí 1) body searching students gathered in a house in Cork city without producing a warrant; and 2) confiscating student ID cards where students appear to be contravening University College Cork rules. The latter is reported to be in accordance with an arrangement between the UCC authorities and the gardaí. While we recognise that Universities have a duty of care towards students and liaison with gardaí is important, we believe a better approach, taken in consultation with the Students Union, would be favourable. Our position was covered by [The Irish Times](#), [The Irish Examiner](#) and [Breaking News](#).

### **Entire country placed on level 3**

On Sunday evening, leaked information from a NPHET meeting (of NPHET's intention to recommend a countrywide move to level 5) gave rise to much public confusion and concern.

In a televised address to the nation on Monday, the Taoiseach announced that the entire country would join Dublin and Donegal on level 3 from midnight the following day until 27 October. Reports on working relations and communication arrangements between the government and NPHET subsequently dominated media coverage this week.

Since the entire country was placed on level 3, Garda checkpoints have been in place to discourage people from making 'unnecessary' journeys and from crossing county borders. From the outset of the crisis, our position at the ICCL has been that the role of the gardaí should be to encourage and educate the public on the health guidelines (our Executive Director Liam Herrick is cited in the [Kildare Nationalist](#) and [Echo Live](#) this week setting out our reasoning for this position).

### **Religious freedom during the pandemic**

We [expressed](#) the view that socially-distanced religious gatherings could go ahead under level 3. The government needs to protect freedom of religion during the pandemic.

### **Guidelines on movement restrictions: the prospect of fines**

On Friday, we wrote to the Minister of Health, Stephen Donnelly, ahead of the Cabinet Sub-Committee's scheduled consideration of the introduction of a system of tiered fines to enforce public health restrictions. We strongly urged the Sub-Committee against any such

introduction as we believe that introducing an additional layer of enforcement in this form and at this point in the Government's Covid response would be ineffective, and would risk undermining essential features of the existing Government's Covid response.

[Findings of an NUI Galway Study](#) by the iCare Research Group, ongoing since March, show that the threat of arrest, fines or quarantine does not encourage people to comply with covid-19 regulations. The Garda Commissioner and the Minister for Justice have also questioned their effectiveness in improving compliance (at the meeting with the Policing Authority on 30 September and on Today with Claire Byrne on 5 October respectively).

Fines are not only expensive to administer but are also discriminatory as they disproportionately penalise people who cannot afford them. We have also continuously underlined how vital the clear communication of the health guidelines by the government is, and have expressed our support for the approach of An Garda Síochána to promote public health by a process of Engage, Educate, Encourage and Enforce. We at the ICCL are particularly encouraged by the Garda commitment to the "sparing use" of powers of enforcement. We believe a system of fines risks undermining the significant success of this approach to date. In the letter, we recalled the [recommendations](#) that we made to the Oireachtas Special Committee on Covid-19 response.

Our Executive Director Liam Herrick spoke on RTÉ Radio 1's [Drive Time](#) on Thursday (8 October) and on Today FM's The Last Word with Matt Cooper on Tuesday (6 October) on policing during the pandemic and the prospect of fines.

It was reported on Friday evening that the Cabinet Covid-19 sub-committee made the decision to introduce graduated fines for non-compliance. Laws giving effect to this decision will be drafted by the Minister for Health and Minister for Justice.

### **Oireachtas Special Committee on COVID-19 response: Final Report**

We welcomed the inclusion of some of our [recommendations](#) in the Committee's [Final Report](#), including that all legislation should be human rights proofed, the importance of broad Oireachtas pre-legislative consultation, and of clear and effective government communication.

### **Protests during the pandemic: DPP to consider prosecutions**

We at The Irish Council for Civil Liberties (ICCL) have called for peaceful protest to be permitted where public health measures are adhered to ([position paper](#)). Although no one has been charged with organising a public event since the crisis outbreak to date, An Garda Síochána (AGS) has confirmed that a file has been sent to The Director of Public Prosecutions (DPP) concerning the Black Lives Matter protest held in Dublin on 6 June. AGS has also confirmed that a file is being prepared on the gathering of a 100 people at the Four Courts in April. According to AGS, difficulties in identifying organisers will make securing criminal charges unlikely. Investigations into the gathering of the Oireachtas golfing society at Clifden, the rave at the Oliver Bond apartment complex and three anti-mask protests are reported to be ongoing. A [media report](#) this week indicates that one person has been prosecuted for holding a private house party (fined €1,000 for hosting a 30 person party).

### **Illegal Surveillance by local authority, DPC finds**

The Data Protection Commissioner has found that Wexford County Council acted illegally when they used drones to monitor people's compliance with movement restrictions in April.

We at the ICCL had questioned whether the local authority had carried out a data protection impact assessment, as required by the GDPR, prior to their use.

### **The Big Debate- Dublin's Fair City**

Our Executive Director Liam Herrick took part in an [online discussion](#) on what we have learned from the unprecedented social, economic and ecological challenges brought on by the COVID-19 crisis. This event was organised by the Irish Architecture Foundation as part of Open House Dublin, Ireland's largest architecture festival. Other speakers were Lord Mayor of Dublin Cllr Hazel Chu, Sinéad Burke, Director of Tilting The Lens, Ali Grehan, Dublin City Architect, Andrée Dargan, DLR County Architect and Jennifer McElwain, School of Natural Sciences, TCD.