



Irish Council for
Civil Liberties

FOR ALL OUR RIGHTS. NO EXCEPTIONS.

HUMAN RIGHTS IN IRELAND A WORK IN PROGRESS?

**ICCL report assessing Ireland's human rights
commitments in the 2020 Programme for Government**



FOREWORD

Welcome to ICCL's Human Rights Progress Report, an assessment of how the Government has performed against its human rights commitments set out in the Programme for Government.

With little progress made in a wide range of areas, the Government has a disappointing overall score of just 38%. In particular, we are concerned about the Government's commitments to improve conditions for asylum seekers in Ireland and to end direct provision. While there has been an increase in people arriving in Ireland seeking asylum, we cannot lose sight of our obligations to respect, protect and fulfil the human rights of everyone in this country.

The Government's efforts to extend the powers governing Garda use of CCTV and Automated Number Plate Recognition, and to introduce Body Worn Cameras for An Garda, as laid out in the Garda Síochána (Recording Devices) Bill 2022, are also a significant cause for concern given issues with Garda compliance with data protection law. The Government has gone even

further than its Programme for Government commitment by setting out its intention to permit Gardaí to use facial recognition technology (FRT) in the same Bill, without publishing the specific wording.

However, there are also grounds for hope. The Government has followed up on its commitment to introduce hate crime legislation. As chair of the Coalition Against Hate Crime, ICCL will continue to engage with the Oireachtas to ensure this legislation is fit for purpose, in line with human rights standards and reflects the experiences and needs of impacted communities. In addition, last year the Government opened a new scheme for undocumented people living in Ireland to regularise their status, which has transformed the lives of thousands of people living in Ireland.

This Progress Report is an important tool for us and all our fellow human rights campaigners and defenders to identify what progress has been made on human rights in the almost three years since the agreement of the Programme for Government,

38%

OVERALL SCORE FOR THE GOVERNMENT'S PROGRESS ON HUMAN RIGHTS COMMITMENTS

and where we should focus our advocacy efforts in the remaining period of this Government. It's clear that Ireland still has significant progress to make if it is to become a country where all our rights are guaranteed without exception.



Liam Herrick

Executive Director
Irish Council for Civil Liberties



METHODOLOGY

Following the 2020 election and the agreement of the Programme for Government, ICCL began monitoring the Government's work on the human rights commitments it made at the beginning of its term.

Almost three years on from the agreement of the Programme for Government, we are publishing our assessment of the progress that has been made on these commitments.

We have gathered 41 human rights commitments made in the Programme for Government which are related to our work. These were selected based on the following criteria:

- The commitment directly impacts on human rights and/or civil liberties;
- Progress on the commitment is measurable;

- The commitment aligns with ICCL's work under the four strategic objectives in our [Strategic Plan](#) (administration of justice; equality and discrimination; democratic freedoms; and digital rights);
- If realised, the commitment would improve human rights in Ireland.

The commitments have been grouped according to ICCL's strategic objectives. Each was weighted according to its potential impact, and the Government's progress on it was graded. A final score was determined for each commitment and each grouping.

Doireann Ansbro

Head of Legal and Policy
Irish Council for Civil Liberties



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ADMINISTRATION OF JUSTICE

While ICCL is broadly supportive of the Government's police reform legislation, we remain extremely concerned at the proposal to add the power to use facial recognition technology in the Garda Síochána (Recording Devices) Bill. We oppose the introduction of Body Worn Cameras without sufficient evidence base for their effectiveness and we oppose the significant expansion of CCTV and ANPR surveillance powers in this Bill. The Policing, Security and Community Safety Bill still contains prosecuting powers for An Garda Síochána, contrary to international standards and a clear recommendation from the Commission on the Future of Policing. It proposes a weak National Security Examiner and does not sufficiently strengthen other Garda oversight bodies. We are still waiting for the Garda Síochána (Powers) Bill to be published but we are concerned that the General Scheme sought to extend the Gardaí's existing powers of search, arrest and detention, rather than just codify them.

Meanwhile, Ireland has yet to opt in to the four remaining EU directives on procedural rights for suspects. Promising to fully implement the EU Victims of Crime Directive was an important commitment by the Government, however, not enough progress is being made towards this goal. Despite a welcome announcement recently of more judges, Ireland still remains the EU Member State with the lowest number of judges per capita. ICCL opposes the renewal of the Offences against the State Act without substantial reform or abolition of the Special Criminal Court. The publication of the General Scheme of the Inspection of Places of Detention Bill was welcome but The Optional Protocol to the UN Convention against Torture could and should be ratified today.

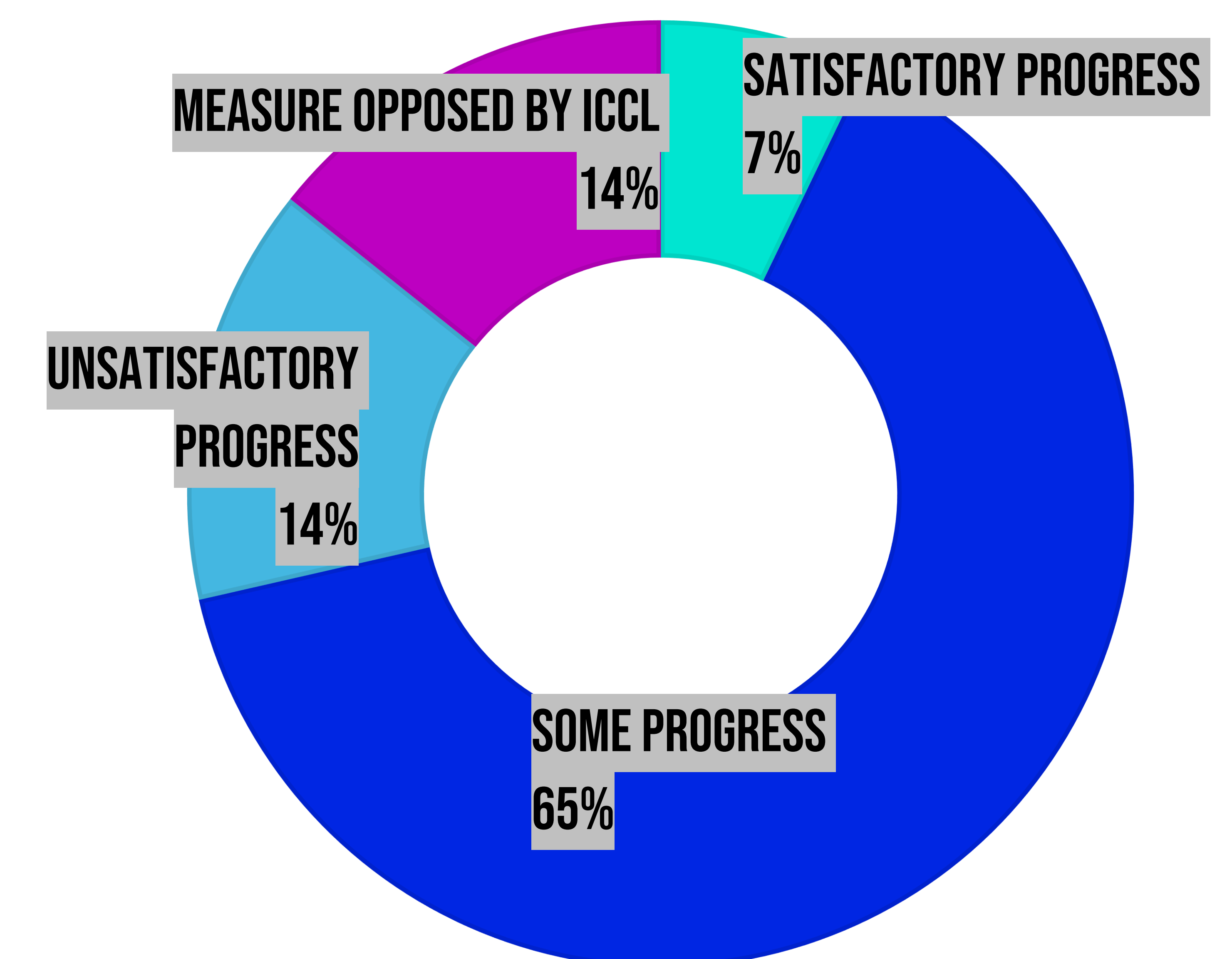


Sarah O'Malley

Policy Officer, Criminal Justice
Irish Council for Civil Liberties

23%

ADMINISTRATION OF JUSTICE



EQUALITY AND DISCRIMINATION

While the Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill is progressing through the Oireachtas, the Government has yet to address the need for a wider set of measures necessary to implement the legislation and tackle the roots of hate.

The lack of progress to effectively end Direct Provision is extremely disappointing, as is the fact that conditions for asylum seekers living in the system have not improved. ICCL welcomes the regularisation scheme for undocumented migrants, and we welcome the progress made on the development of a scheme to disregard historic convictions of gay and bisexual men, the publication of research that will inform legislation to ban conversion therapy, the review of Equality Legislation and the imminent publication of the National Action Plan Against Racism.

In the area of gender equality: we have a date for the gender equality, care and family referendum, a General Scheme of a Bill to introduce safe access zones is undergoing pre-legislative scrutiny, and the review of the Regulation of Termination of Pregnancy Act 2018 is ongoing; but there is no plan to introduce the new strategy on women and girls. Some progress has also been made to fulfil international obligations in relation to disability rights.

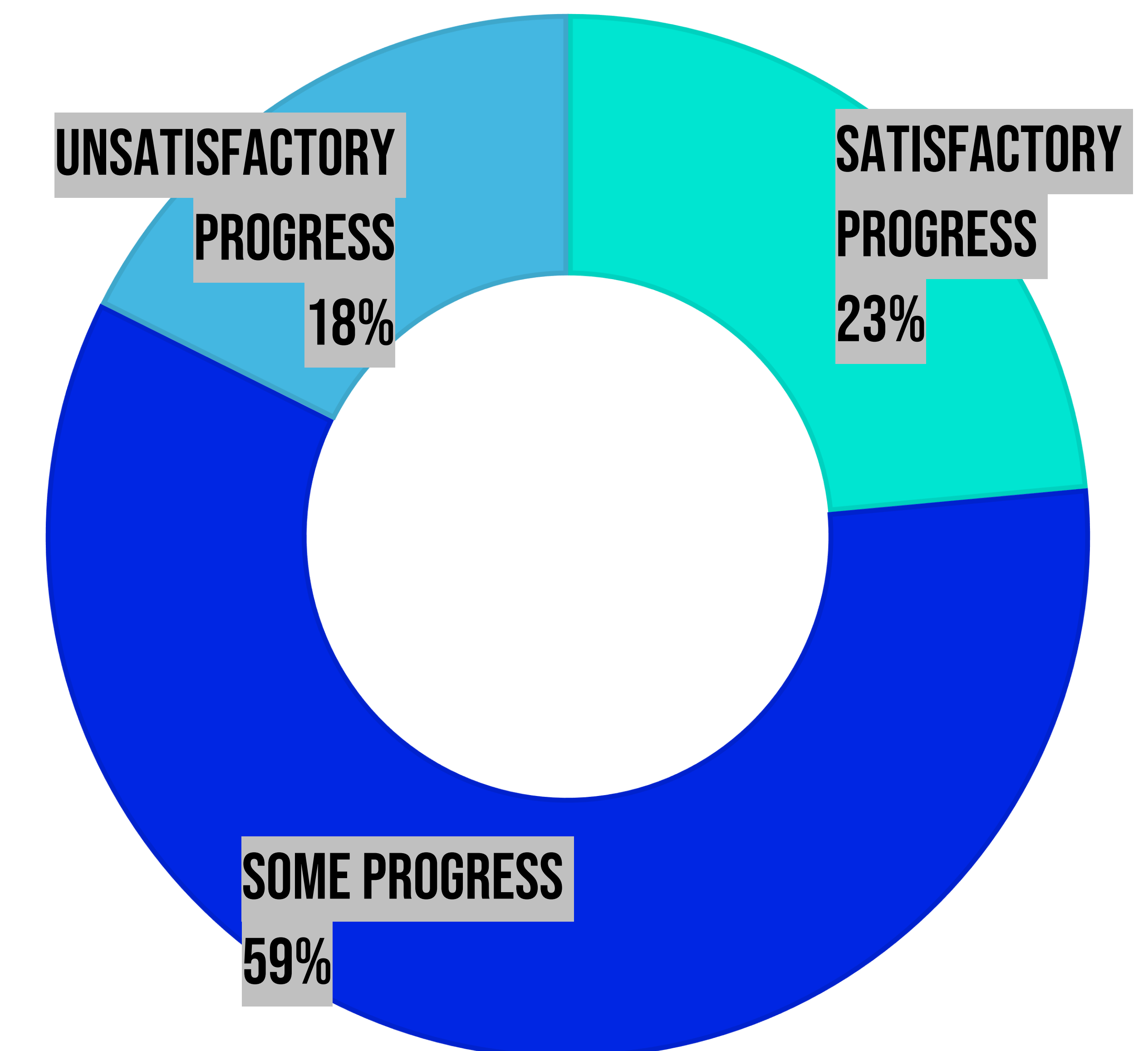


Luna Lara Liboni

Policy Officer, Equality and Hate Crime
Irish Council for Civil Liberties

51%

EQUALITY AND DISCRIMINATION



DEMOCRATIC FREEDOMS

The low score awarded to the Government on Democratic Freedoms is very disappointing, particularly when they set themselves such a low bar to begin with. There has been progress in some areas such as the review of charity law and social dialogue, however, progress elsewhere has been weak.

While we welcome the long overdue establishment of the Electoral Commission, it is unable to execute some of its key functions. The poor drafting of legislation means that the European Commission has prevented the Government from enacting provisions relating to political advertising and mis/disinformation, the latter of which was rushed through the Oireachtas with no oversight.

Despite the large gaps in anticorruption legislation and demands from international bodies, there has been no progress in the publication of a draft bill which would address the recent disclosures scandals. The Government has also done nothing to remove undemocratic restrictions which limit the abilities of civil society organisations to fundraise, despite this being a central plank of our foreign policy.

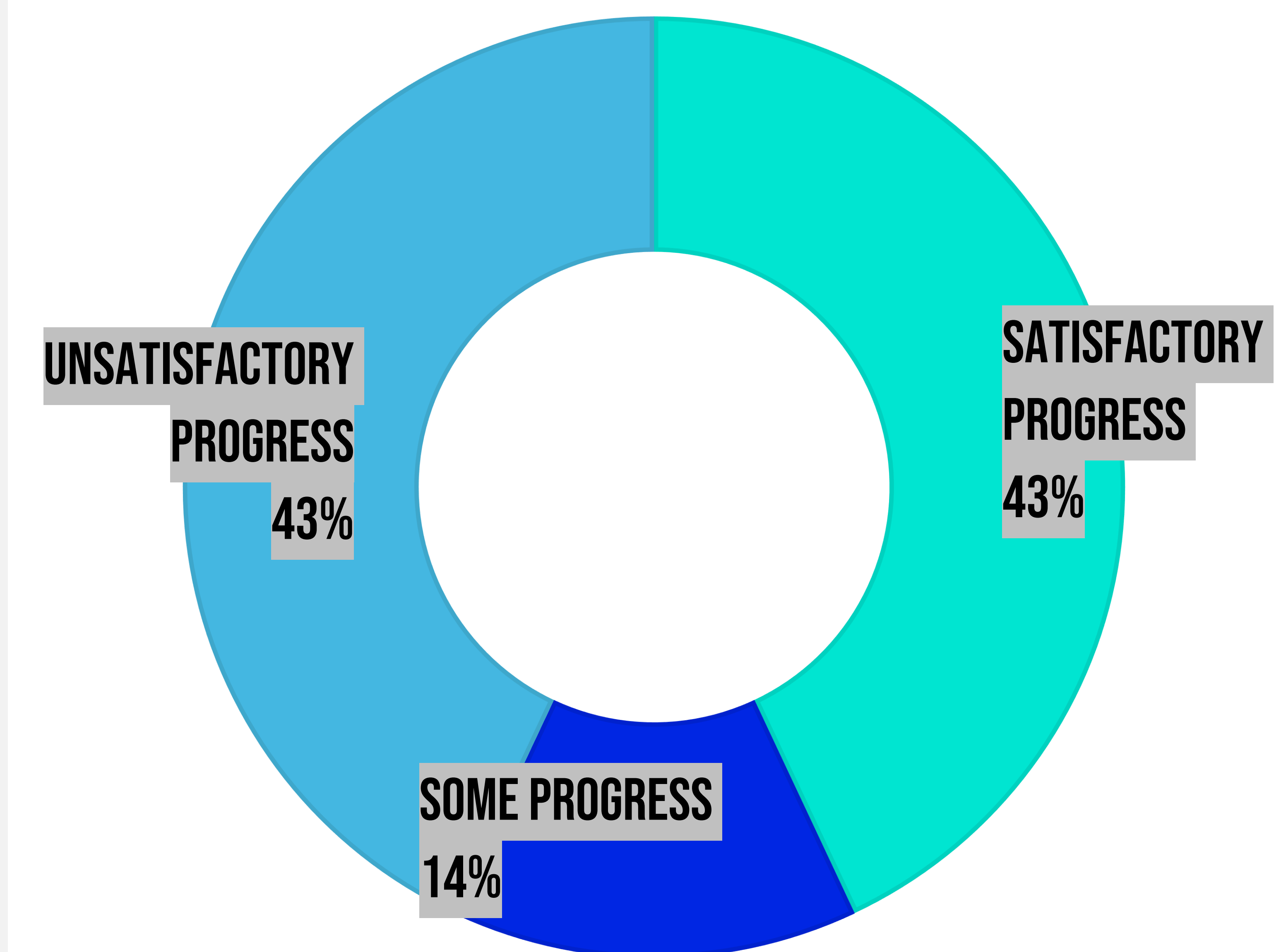


Ronan Kennedy

Senior Policy Officer, Democratic Freedoms
Irish Council for Civil Liberties

50%

DEMOCRATIC FREEDOMS



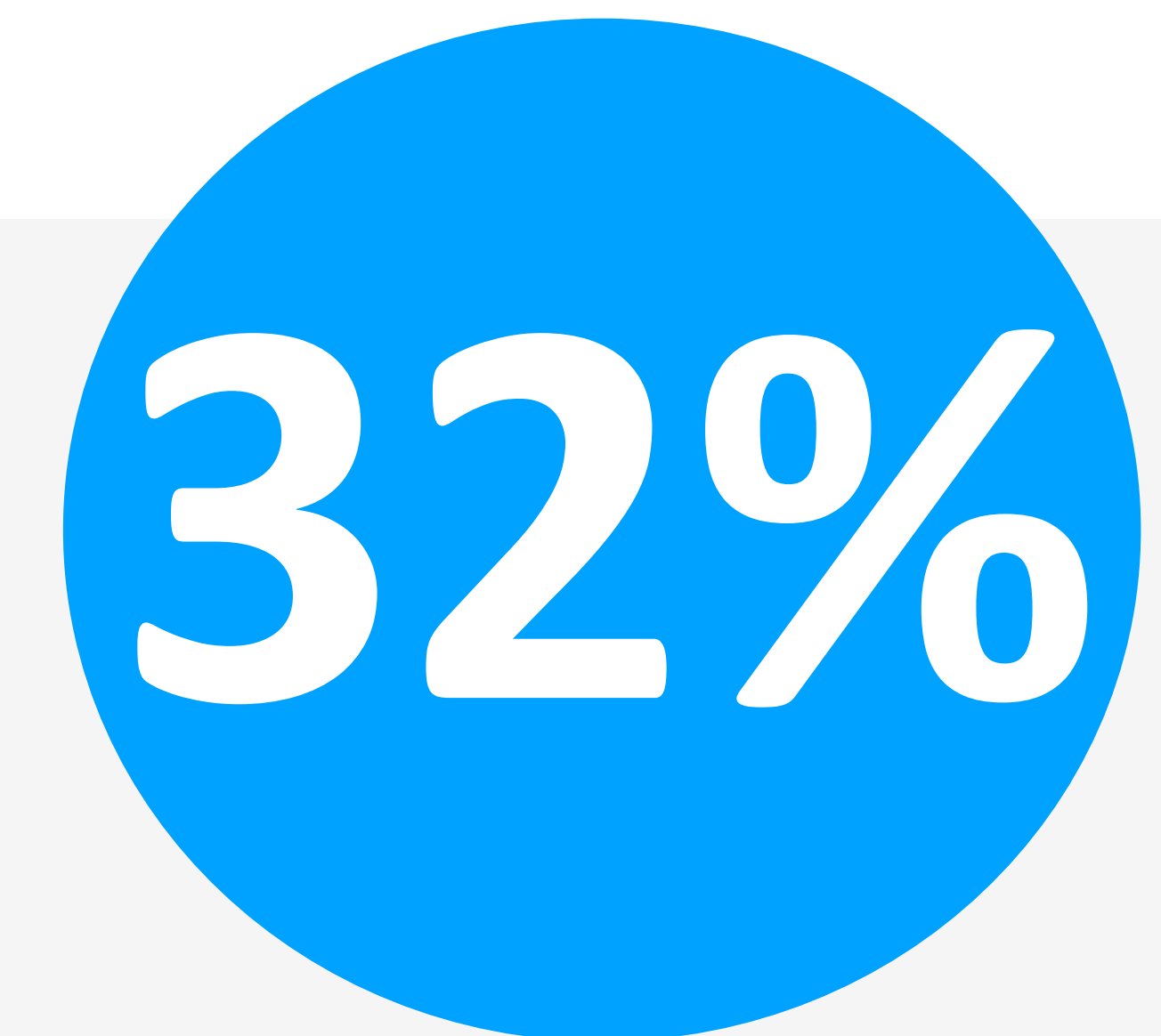
DIGITAL RIGHTS

ICCL raised significant concerns about the Online Safety and Media Regulation Act because of the risk it poses to people's rights to freedom of expression and privacy. Provisions in the Act will enable the removal of speech online that is not illegal offline. It is ICCL's position that lawful expression should not be subject to such restrictions. It will also operate contrary to the Digital Services Act (DSA) which overrules it. It was ICCL's position that Irish legislators should have instead 1) Transposed the Audiovisual Media Services Directive; 2) Focused on enforcing the DSA and tackling algorithmic amplification; and 3) Passed the pending hate crime legislation, before considering whether further legislation was necessary and proportionate for online safety. ICCL will carefully monitor the impact of this legislation on fundamental rights.

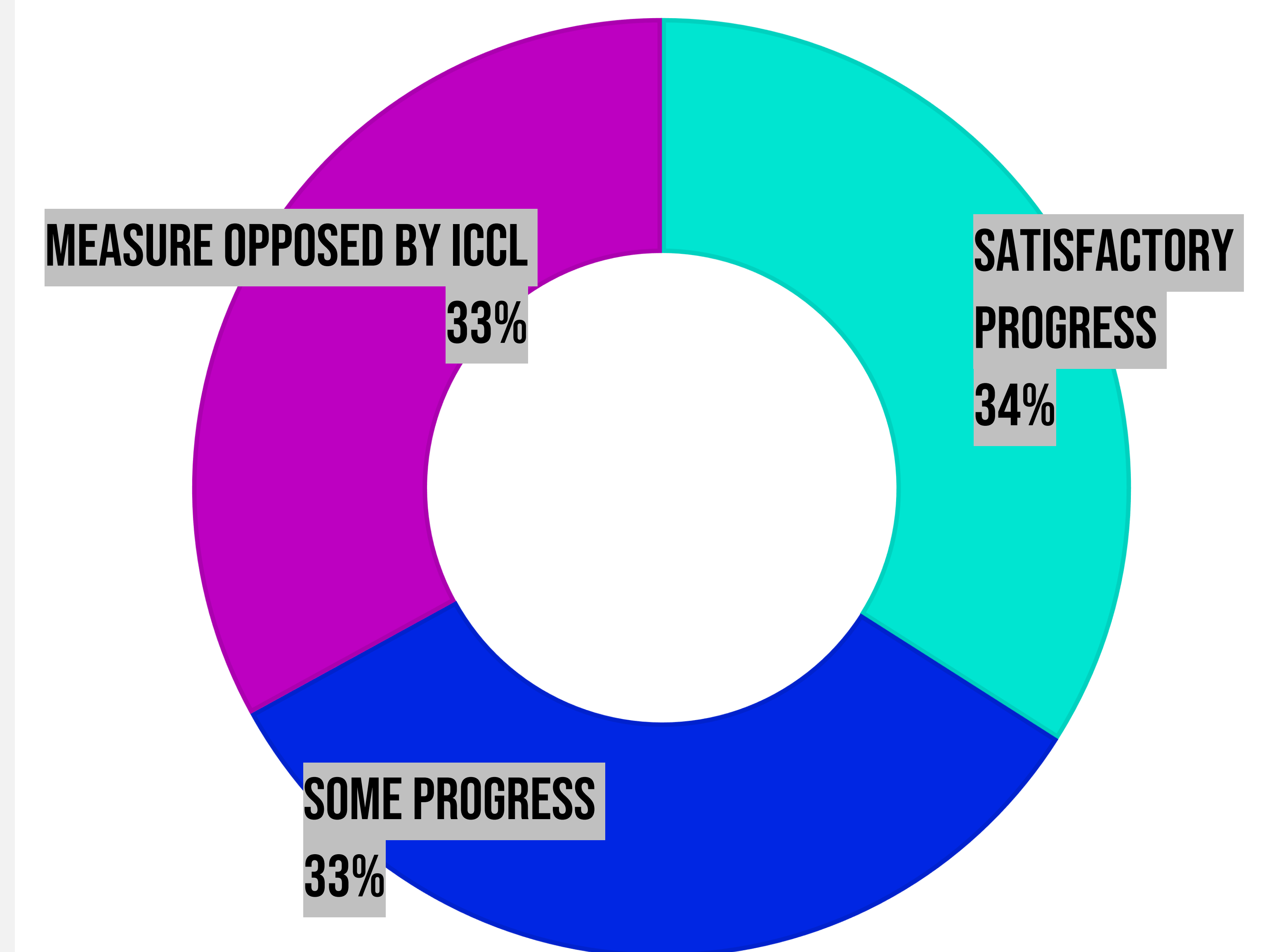
ICCL has called for an independent review of how to strengthen and reform the Data Protection Commission (DPC). We also called for the appointment of two additional commissioners and a process to determine which should be the chair. While Government has announced the appointments, they are now overdue. The Government has failed to launch an independent review and has designated the current commissioner as the chair. As a result, the incoming commissioners, if appointed, may not be in a position to urgently reform the DPC.



Olga Cronin
Policy Officer, Information Rights
Irish Council for Civil Liberties



DIGITAL RIGHTS



ADMINISTRATION OF JUSTICE

Programme for Government Commitment	Satisfactory Progress	Some Progress	Unsatisfactory Progress	Measure Opposed by ICCL
Annually renew the provisions of the Offences Against the State Act 1998 and the Criminal Justice (Amendment) Act 2009.				●
Codify the Garda powers for search, arrest, and detention.		●		
Convene a Citizens’ Assembly to consider matters relating to drugs use.		●		
Enact the Judicial Appointments Commission Bill within the first six months of Government, engage with stakeholders to make appropriate amendments to the current Bill, to ensure that it enjoys broad support. Including ensuring that the Chief Justice is the <i>ex-officio</i> chairperson of the body.		●		
Establish a working group to consider the number of and type of judges required to ensure the efficient administration of justice over the next five years.	●			
Extend the powers governing Garda use of CCTV and Automated Number Plate Recognition to help prevent crime and prosecute those involved in criminal activity.				●
Externally review the legal and organisational framework governing community CCTV.		●		
Fully implement the EU Victims of Crime Directive, including the full provision of victim liaison officers.		●		
Fully implement the revised Victims’ Charter and establish a system to monitor its implementation.		●		
Implement reforms to the administration of civil justice in the State covering matters such as the more efficient and effective deployment of court and judicial resources. This will be guided by the report of the group chaired by the former President of the High Court, Mr. Justice Peter Kelly.		●		
Independently examine the option of a dedicated system of public defenders.			●	
Introduce a new Policing and Community Safety Bill to redefine the functions of An Garda Síochána.		●		
Rapidly implement the <i>Report of the Commission of the Future of Policing</i> , while ensuring that there remains a strong and independent public external accountability mechanism for the Garda Commissioner and Garda Leadership Team.		●		
Ratify and implement the Optional Protocol to the Convention against Torture within 18 months of the formation of the Government.			●	

EQUALITY AND DISCRIMINATION

Programme for Government Commitment	Satisfactory Progress	Some Progress	Unsatisfactory Progress	Measure Opposed by ICCL
Act on interim recommendations from the Chair of the Expert Group to improve conditions for asylum seekers currently living in the system. Including: vulnerability assessments, the right to work, the ability to apply for driver licences and bank accounts, an independent inspection process, measures to reduce the length of time in processing decisions, mental health services, and the training of managers of Direct Provision Centres.			●	
Amend the gender ground in equality legislation, to ensure that someone discriminated against on the basis of their gender identity is able to avail of this legislation.		●		
Committed to ending the Direct Provision system and will replace it with a new International Protection accommodation policy, centred on a not-for-profit approach.			●	
Create new pathways for long-term undocumented people and their dependents, meeting specified criteria to regularise their status within 18 months of the formation of the Government, bearing in mind EU and Common Travel Area commitments.	●			
Develop and implement a new National Strategy for Women and Girls.			●	
Enshrine disability rights by finalising the legislation required following Ireland’s recent ratification of the UN Convention on the Rights of People with Disabilities (UNCRPD).		●		
Examine the introduction of a new ground of discrimination, based on socio-economic disadvantaged status to the Employment Equality and Equal Status Acts.		●		
In order to ensure that those who seek to encourage and incite others to hate minority groups can be prosecuted, revise and update the Incitement to Hatred Act 1989, taking account of the public consultation conducted in 2019.		●		
Informed by the work of the Citizens’ Assembly, consider whether there should be a referendum on Article 41.2 of the constitution.	●			
Introduce a scheme for the expunging of criminal records for gay men convicted of historical offences.		●		
Introduce Hate Crime legislation within 12 months of the formation of the Government. This legislation will create specific offences, to ensure that those who target victims because of their association with a particular identity characteristic are identified as perpetrators of hate crime. This legislation will be on the basis of an aggravated offences model. It will be supported by training across the criminal justice system, as well as victim supports.		●		
Legislate to ban conversion therapy.		●		
Publish a new national Action Plan against Racism.	●			
Publish a White Paper by the end of 2020, informed by the recommendations of the Expert Group, which will set out how this new [international protection accommodation] system will be structured and the steps to achieving it.	●			
Respond to each recommendation of the Citizens’ Assembly on gender equality.		●		
To review the operation of the Act providing for abortion as required under Section 7 of the Regulation of Termination of Pregnancy Act 2018, in 2021.		●		
To introduce safe access zones		●		

DEMOCRATIC FREEDOMS

Programme for Government Commitment	Satisfactory Progress	Some Progress	Unsatisfactory Progress	Measure Opposed by ICCL
Empower the Electoral Commission to regulate online political advertising in the public interest and introduce a consistent regime relating to political advertising across all media.			●	
Establish a unit in the Department of Taoiseach to coordinate social dialogue. It will create new models of sectoral engagement.	●			
Establish an Electoral Commission to provide independent oversight of elections and referendums, to inform the public about elections and referendums, to update and maintain the electoral register, and to conduct elections. Ensure that this Commission is in place by the end of 2021.	●			
Hold referendums on housing and extending the franchise at presidential elections to Irish citizens living outside the State.			●	
Reform and consolidate the Ethics in Public Office legislation.			●	
Review our current electoral laws and the conduct of politics in Ireland, to ensure that donations and resources from non-citizens outside the State are not being utilised to influence our elections and political process.		●		
Update legislative provisions with the Charities Regulator, to ensure that it has the necessary powers to increase trust and confidence in the management and administration of charities.	●			

DIGITAL RIGHTS

Programme for Government Commitment	Satisfactory Progress	Some Progress	Unsatisfactory Progress	Measure Opposed by ICCL
Enact the Online Safety and Media Regulation Bill and establish an Online Safety Commissioner.				●
Proposals on a right to disconnect in 2020.	●			
Support the Data Protection Commission, to ensure that Ireland delivers on its responsibilities under the General Data Protection Regulation		●		