

2024 RULE OF LAW REPORT – TARGETED STAKEHOLDER CONSULTATION

II. Anti-Corruption Framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission’s attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the anti-corruption framework (if applicable)

Relevant recommendation from 2023 Report:

‘Strengthen and digitalise the existing ethics framework, on asset declarations and lobbying, including the monitoring and enforcement capacity of the Standards in Public Office Commission.’

TI Ireland comment:

Despite the publication in December 2022 of a comprehensive [‘Review of Ireland’s Statutory Framework for Ethics in Public Office’](#), and a Group of States against Corruption (GRECO) [Evaluation Report](#) on Ireland in February 2023 that called for many of the same reforms, over the reporting period there has been virtually no progress on strengthening or digitalising the existing ethics framework, asset declarations, or the monitoring or enforcement capacity of the Standards in Public Office Commission (SIPO). These deficiencies come in the wake of multiple previous calls by [Transparency International \(TI\) Ireland](#), [GRECO](#) and [SIPO](#) itself for similar reforms, as well as [previous](#) and [current](#) attempts – thus far unsuccessful – to pass legislation to overhaul or amend Ireland’s framework around ethics and standards in public office.

In relation to this recommendation from last year’s Rule of Law Report, the sole area of progress during 2023 was around lobbying, in the form of the [Regulation of Lobbying and Oireachtas \(Allowances to Members\) \(Amendment\) Act 2023](#), which was signed into law in June 2023. This amendment makes it an offence to take any action intentionally designed to avoid or circumvent one’s obligations in connection with registering as a lobbyist and/or making returns (so-called ‘anti-avoidance’ provisions) and closes off a number of other loopholes in the [Regulation of Lobbying Act 2015](#) (further detail provided in the section on lobbying, below).

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention, detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic and with foreign authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

TI Ireland has [previously highlighted](#) the significant under-resourcing of relevant bodies charged with preventing, detecting, investigating and prosecuting corruption, in particular the [Garda National Economic Crime Bureau \(GNECB\)](#), its Anti-Bribery and Corruption Unit (ABCU) and the [Financial Intelligence Unit \(FIU\)](#), as well as the separate Garda Anti-Corruption Unit (ACU), which is charged with tackling internal corruption within the national police service. TI Ireland is not aware of any marked changes to previous concerning levels of under-resourcing in these departments. According to the [latest available figures](#), in 2022 the Irish FIU dealt with a record 47,421 Suspicious Transaction Reports (STRs), which represents a 48% increase in the number of STRs it handled just three years earlier, and a 74% increase in the number of STRs it handled a decade earlier. It is not known whether the FIU's staffing – which in 2020 amounted to just 17 staff dealing with 29,631 STRs – has increased in line with the sharp rise in the Unit's workload.

Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption

The [Policing, Security and Community Safety Bill 2023](#), currently at third stage in the Senate, will make some important changes aimed at enhancing the governance, oversight and accountability of the national police service, An Garda Síochána. The Bill includes explicit provision for the Garda Commissioner's independence, the creation of a high-level Board, the creation of a Policing and Community Safety Authority to replace the Garda Inspectorate and the Policing Authority, and the renaming of the Garda Síochána Ombudsman Commission as the Office of Police Ombudsman.

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators

Although the Advisory Council on Economic Crime and Corruption undertook a [public consultation](#) in October 2023 on the development of strategies to combat economic crime and corruption, TI Ireland is concerned about the lack of resources allocated to the bodies responsible for the actual implementation of those strategies. Moreover, although TI Ireland welcomed the creation of the Advisory Council following the [Hamilton Review](#), it [voiced concerns](#) in 2022 about the lack of any substantive civil society representation. The Department of Justice [announced and advertised](#) a vacancy for civil society representation in March 2023 but there has been no update since then.

B. Prevention

Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training)

We are not aware of any new measures or developments on these issues during the reporting period, except for SIPO conducting regular outreach/training on existing ethics legislation.

General transparency of public decision-making (including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing)

In relation to **lobbying**, the new [Regulation of Lobbying and Oireachtas \(Allowances to Members\) \(Amendment\) Act 2023](#), makes it an offence to take any action intentionally designed to avoid or circumvent one's obligations in connection with registering as a lobbyist and/or making returns (so-called 'anti-avoidance' provisions) and closes off a number of other loopholes in the original [Regulation of Lobbying Act 2015](#), notably:

- The 2015 Act exempted a person who was marked on the register as having 'ceased lobbying' from making returns. Technically, however, the person remains on the register, and any person on the register may carry out lobbying. The 2015 Act therefore inadvertently permitted a person who has 'ceased lobbying' to lobby without making returns. The 2023 Act eliminates this loophole and makes lobbying while marked on the register as having ceased lobbying a 'relevant contravention' and offence.
- The 2015 Act applied to representative and advocacy umbrella groups only where they had at least one employee, where that or another paid employee conducted lobbying. In principle, this provision made allowances for civil society and community groups that were staffed by volunteers and made communications in connection with policy matters that affected the public interest. However, several corporate interest groups and other such coalitions do not engage any direct employees and were therefore not required to make returns to the Register of Lobbying despite the fact that many of their activities, if carried out under the auspices of a constituent member organisation, would constitute lobbying (which in many cases is the primary aim of such associations). The 2023 Act rectifies this by including in the definition of persons carrying out lobbying 'a body which exists primarily to represent the interests of its members' or 'to take up particular issues', 'where one or more of the members of the body would fall within the scope of [the Act] if such member or members were to carry on lobbying activities outside of the body and the relevant communications are made on behalf of any of the members', or 'are made in the furtherance of any of those issues'.
- The 2015 Act applied to office holders in advocacy/interest groups only where it was an office 'in respect of which remuneration is payable'. The 2023 Act removes this criterion, so that non-remunerated office holders now fall within the scope of lobbying regulations and obligations.

In relation to post-term employment rules, the 2023 Act addresses some of the issues that arise in connection with Section 22 of the 2015 Act, which set out restrictions on post-term employment as a lobbyist. A breach of the cooling-off period, or lobbying during that period without SIPO's consent, now becomes a 'relevant contravention'. This allows SIPO to carry out an investigation and impose sanctions where it believes that a person has not complied with the Section 22 cooling-off provisions. It should be noted that breaches of Section 22 are part of the administrative enforcement regime established by the 2023 Act and are not criminal offences.

The 2023 Act also introduces new requirements for bodies employing Designated Public Officials (DPOs), which should give SIPO greater awareness of situations in which a breach is likely to have occurred. In 2019, as part of their [submission](#) to the second review of the 2015 Act, SIPO pointed out that they had received only nine applications for consent to waive or reduce the post-employment cooling-off period in the four years since the Act's commencement, and that it was 'somewhat implausible' that so few former DPOs had sought outside employment that fell under the Act, concluding that there were 'likely to have been instances of unreported breaches'.

The 2023 Act obliges public bodies not only to inform relevant DPOs of their post-employment obligations but also to inform SIPO when a relevant DPO leaves their employment (including dates of appointment and departure), which should assist SIPO in administering Section 22 sanctions.

Notwithstanding these welcome provisions, TI Ireland still seeks further reforms to the lobbying framework in order to close outstanding loopholes. These include:

- Explicitly prohibiting elected or other public officials from acting as lobbyists or consultants on lobbying, or from receiving any income or other material gain for such functions;
- Basing the definition of lobbying in relation to public procurement or disbursement of state assets on the estimated value of an asset, contract, licence or tender;
- Removing any ambiguity in reporting obligations that may allow so-called 'shadow lobbying';
- Imposing a requirement for lobbyists to disclose their expenditure on lobbying, including the sources of their funding, to the Lobbying Regulator;
- Extending the obligations on DPOs to increase transparency around their lobbying;
- Expanding restrictions on DPOs' post-term employment as a lobbyist;
- Enhancing the Oireachtas website to allow for a fully comprehensive 'legislative footprint' that tracks all lobbying on draft legislation as Bills make their way through various stages;
- Improving the coherence between lobbying regulation and ethics legislation, to ensure that SIPO investigations can have regard to the lobbying code of conduct, and to improve the transparency of SIPO investigations and their decisions around waiving 'cooling off' periods.

In relation to **party financing**, the [Electoral Reform Act 2022](#) provided for offences for failure to comply with obligations regarding political parties' submission of statements of accounts under the [Electoral Act 1997](#), as amended by the [Electoral \(Amendment\) \(Political Funding\) Act 2012](#). However, these provisions have yet to be commenced by the Minister; a deficiency that was illustrated during 2023 by the case – [publicised in the national media](#) – of a political party repeatedly failing to submit details of their party finances to SIPO, which resulted in no sanction.

Rules and measures to prevent and address conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)

We are not aware of any new measures or developments on these issues during the past year. The Government's aforementioned '[Review of Ireland's Statutory Framework for Ethics in Public Office](#)', which reported in December 2022 and included recommendations around the disclosure of interests (building upon the lapsed [Public Sector Standards Bill 2015](#)), has yet to be acted upon.

In the meantime, there continue to be serious deficiencies in the ease-of-use/format, timeliness, monitoring and enforceability of the Oireachtas [Register of Members' Interests](#) – which TI Ireland considers a key transparency mechanism for capturing interests that may influence elected representatives. As of January 2024, the latest disclosures available on the Register were for 2022. Moreover, in the last two published Registers of Members' Interests for the Dáil and Seanad, covering 2021 and 2022, every member made a 'nil return' in respect of gifts, from which the conclusion could be drawn that the definitions are drawn too widely and/or that the disclosure thresholds are set too low to be of any use in capturing potentially compromising gifts.

If available to you, for the three preceding questions, you are also invited to provide figures on their application, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.).

Measures in place to ensure whistleblower protection and encourage reporting of corruption, including the number of reports received and the follow-up given

In January 2023, the [Protected Disclosures \(Amendment\) Act 2022](#) was commenced, which transposed the EU Whistleblowing Directive into Irish law. As outlined in TI Ireland's submission to the 2023 Rule of Law Report, this legislation has been broadly welcomed and has extended and strengthened safeguards for whistleblowers in certain respects. Notwithstanding this, TI Ireland [remains concerned](#) about restrictions on reporting of wrongdoing to government ministers, as well as the introduction of criminal penalties for knowingly false reports.

Also in January 2023, the [Office of the Protected Disclosures Commissioner](#) commenced its operations. The role of the office is to receive protected disclosures reports and send them to the appropriate organisation, in line with the [Protected Disclosures Act 2014](#) (as amended). The office is comprised of a Commissioner and a Director General (who both carry out their protected disclosures functions alongside other ombuds roles) supported by four full-time staff.

In July 2023, the [European Union \(Protection of Persons who Report Breaches of Union Law\) Regulations 2023](#) (S.I. No. 375/2023) came into operation as a Statutory Instrument (secondary legislation) to address inadequate previous transposition of provisions intended to allow disclosures to be made to EU agencies.

In November 2023, the [Protected Disclosures Act 2014 \(Disclosure to Prescribed Persons\) \(Amendment\) Order 2023](#) (S.I. No. 524/2023) came into operation to update the list of prescribed persons who are authorised under law to receive protected disclosures, increasing the number of prescribed persons to 108.

Also in November 2023, the Department of Public Expenditure and Reform (DPER – the lead government department for whistleblowing policy) published [statutory guidance](#) on the Protected Disclosures Act 2014 for public bodies and prescribed persons in light of the new Protected Disclosures (Amendment) Act 2022, replacing the previous interim guidance. [Template policies](#) for public bodies to adapt and use in developing internal reporting procedures and for prescribed persons to use in developing external reporting procedures have also been made available. DPER have also produced instructions on completion of the mandatory annual reporting which must be completed by all prescribed persons and public bodies, as well as a Framework Agreement for training on protected disclosures for public bodies.

DPER continues to fund the work of TI Ireland's '[Speak Up' Helpline](#), the provision of free legal advice via the [Transparency Legal Advice Centre](#), and the provision of support through TI Ireland's [Psychological Support Service](#). TI Ireland also produced a public information campaign, funded by the Department, to raise awareness of the new Protected Disclosures (Amendment) Act. This included work on an updated national survey of attitudes towards whistleblowing and guidance for workers on the Act.

Transparency International also published a review of the whistleblower protection laws of 20 EU member states, including Ireland, against international best practice and the key requirements of the EU Whistleblower Protection Directive in 2023. This report, titled '[How well do EU countries protect whistleblowers?](#)', reflected relatively well on the statutory framework for whistleblower protection in Ireland. The main critical findings were the issue of increasing conditions when reporting to a minister (as highlighted in our previous submission), the cap on compensation for claims taken to the Workplace Relations Commission, and the reduction in compensation linked to a whistleblowing motive.

Sectors with high-risks of corruption in your Member State:

- Measures taken/envisaged for monitoring and preventing corruption and conflict of interest in public procurement
- List other sectors with high risks of corruption and the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. healthcare, citizen /residence investor schemes, urban planning, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)

In relation to **public procurement**, during 2023 the Government engaged with the Organisation for Economic Cooperation and Development (OECD) as part of an European Commission-funded [project](#) (running from 2022 to 2024) to develop a strategy for the digital transformation of public procurement for Ireland, including ‘the adoption of standard principles and a framework for different sectors and public bodies to apply a consistent and interoperable approach to digital public procurement’. In June 2023, TI Ireland met with the OECD’s Infrastructure & Public Procurement Division to brief them on anti-corruption considerations as part of the digital transformation of public procurement. Our briefing drew on the findings and recommendations of our [National Integrity Index \(NII\)](#) project, which ran between 2018 – 2022 and assessed corruption risk prevention in local authorities, the private sector, universities, semi-state and public bodies. In particular, we stressed the need for digital public procurement systems to fully and proactively address corruption risk in terms of procurement procedures, disposal of assets, disclosure of awards of procurement contracts, maintenance of records, and specialist training.

In relation to **planning**, in November 2023 a new [Planning and Development Bill 2023](#) was presented to the Oireachtas by the Minister for Housing, Local Government and Heritage and has now completed its second stage, but has been [criticised](#) in the media for eroding existing safeguards and accountability, and for providing ‘fertile ground for corruption and extortion’. TI Ireland remains concerned that several of the corruption risks in the Irish planning system that were highlighted more than a decade ago by the [Planning Tribunal](#) remain largely unmitigated, with limited evidence of government impetus to address these outstanding issues. In 2019, TI Ireland’s [second NII report](#) on local authorities identified transparency in planning as an issue that requires particular attention at local government level. By way of example, concerns around planning in County Donegal led to a formal review being instigated in 2015, but the report from that review has [still not been published](#).

In relation to **citizen/residence investor schemes**, Ireland’s Immigrant Investor Programme (IIP) was [closed](#) to new applicants in February 2023 by the Minister for Justice. The IIP was created in 2012 and offered renewable five year, multiple-entry residency visas to qualifying non-EEA nationals and their families holding a minimum of two million euros in net worth and willing to invest or endow significant sums in Ireland (with the level of investment dependent on the category of the scheme applied for). For several years, a number of international and non-governmental organisations – including the European Commission, the Council of Europe, the OECD and [TI Ireland](#) – had called for the scrapping of the IIP due to the high risk of its use / exploitation by bad actors. Another scheme, the [Start-Up Entrepreneur Programme \(STEP\)](#), remains in place, offering the same residency advantages but focussed on funded start-ups.

In relation to **organised crime related corruption**, TI Ireland is not aware of any specific measures to prevent and address this form of corruption (e.g. infiltration of public bodies) that were taken over the reporting period. Notwithstanding this, reports of arrests and prosecutions by An Garda Síochána indicate that operational activity against the possible corruption of its [members](#) and [staff](#) continues, including by the Garda National Bureau of Criminal Investigation. TI Ireland remains concerned whether the Garda Anti-Corruption Unit has sufficient staffing, proactive capabilities and access to information / intelligence / IT systems in order to fully and effectively implement the Anti-Corruption Unit Operating Model ([supposed to be achieved by Q1 2023](#).)

In relation to **other high-risk sectors**, TI Ireland has [for several years](#) been warning of the use / exploitation of Irish corporate structures and financial vehicles for [international money laundering](#) – including the proceeds of overseas corruption, kleptocracy, sanctions evasion and other forms of criminality. We remain particularly concerned about the role of Special Purpose Vehicles (SPVs, also known as Special Purpose Entities) and Limited Partnerships, as well as continued deficiencies in the statutory and regulatory framework for anti-money laundering and company registration.

During this reporting period there have been two developments to note in this regard, the first being the Government’s [stated intention](#), in February 2023, to bring forward legislation to tighten regulation around both Limited Partnerships (LPs) and company registration in the form of the Miscellaneous Provisions (Transparency and Registration of Limited Partnerships and Business Names) Bill 2023. This announcement came in light of media reports in 2021 – following the ‘[Pandora Papers](#)’ cache of leaked documents from offshore corporate service providers – showing that two thirds of Irish LPs’ general partners were based in offshore jurisdictions such as Belize, the British Virgin Islands, the Cayman Islands, Panama and the Seychelles. Subsequent [investigative journalism](#) in 2022 found Irish LPs being promoted internationally – including in Russia, Ukraine and Uzbekistan – as opaque, tax-free, offshore and ‘off-the-shelf’ structures registered in a country with an ‘[impeccable reputation](#)’. Indeed, current rules mean that LPs are not taxable and are not required to register their beneficial owners, nor to have an address in Ireland, nor in most cases to file annual company accounts. To date, however, the proposed Bill has not been presented to the Oireachtas, and the detail and extent of any new obligations that it may contain remain unclear.

The second important development over this reporting period was the introduction, in June 2023, of the [European Union \(Anti-Money Laundering: Beneficial Ownership of Corporate Entities\) \(Amendment\) Regulations 2023](#) (S.I. 308/2023). This piece of secondary legislation followed Ireland’s immediate suspension of public access to its registers of beneficial ownership in the wake of a [ruling](#) by the Court of Justice of the EU (CJEU) in November 2022 – access that had previously been guaranteed by the EU’s 5th Anti-Money Laundering Directive (AMLD5). The new Regulation demands that, in addition to applicants demonstrating involvement in the prevention, detection or investigation of money laundering or terrorist financing (ML/TF) – and establishing that accessing the beneficial ownership information would serve this purpose – the company subject to the access request should also be connected to an offence involving ML/TF, or hold assets in a high-risk third country. These conditions effectively preclude meaningful access to beneficial ownership information by journalists or civil society organisations, despite the CJEU [recognising](#) their role in anti-money laundering efforts as legitimate – and previous work showing beneficial ownership transparency to be an [essential tool](#) in [uncovering](#) illicit activities. The new Regulation has been [described](#) by a company law expert as creating a ‘Catch-22’ in that ‘you can’t ask a question unless you can prove you know the answer’. Transparency International has singled out Ireland’s approach as [‘highly restrictive’](#) and has called for a resumption of public access.

Any other relevant measures to prevent corruption in public and private sector

N/A

C. Repressive measures

Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery

TI Ireland considers that the criminal sanctions provided for in statute are adequate for most corruption-related offences. However, we remain concerned that this is not the case for certain breaches of the Ethics Acts (namely the [Ethics in Public Office Act 1995](#) and [Standards in Public Office Act 2001](#)), reform of which was proposed in the [Public Sector Standards Bill 2015](#) and the aforementioned '[Review of Ireland's Statutory Framework for Ethics in Public Office](#)' in 2022. We also consider that Deferred Prosecution Agreements (DPAs) are likely to be a useful means of holding corporations to account for corruption-related offences – though caution that DPAs should not be used to allow natural persons (i.e. management or employees) to avoid prosecution.

Data on the number of investigations, prosecutions, final judgments and application of sanctions for corruption offences (differentiated by corruption offence if possible) including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds

Aggregated data on fraud and theft offences is published by the Central Statistics Office (CSO). Since 2006, TI Ireland has called for the collection and publication of disaggregated data identifying enforcement measures on foreign bribery and other corruption related offences, however we are not aware of any progress in this regard – despite the CSO [stating on its website](#) that it 'supports reporting on the Sustainable Development Goals', including SDG 16.4.1 (concerning illicit financial flows) and SDG 16.5 (concerning bribes paid to public officials).

Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)

TI Ireland considers that intelligence-led policing of public-sector corruption is essential if red-flags and suspicious patterns are to be identified. However, the sharing of data among existing agencies is unlikely to be enough to expose the most complex and politically-sensitive cases. We have previously therefore [recommended](#) that the Government considers establishing an independent National Anti-Corruption Bureau to lead investigations into the most complex and politically-sensitive cases, with powers and capabilities similar to that of dedicated anti-corruption agencies in other comparable jurisdictions (such as the New South Wales Independent Commission Against Corruption). Irrespective of whether an independent unitary anti-corruption agency is established, as noted earlier we remain concerned that existing bodies with anti-corruption responsibilities are insufficiently resourced and lack the necessary powers to investigate serious corruption cases.

Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders

Ireland has an advanced civil confiscation regime which is used regularly to restrain, forfeit and even tax the proceeds of crime. Although these measures can be used against the proceeds of domestic and overseas corruption, few such cases have reached the Irish courts in recent years.

Other - please specify

N/A