

Atheist Ireland

To Emily Logan
Chief Commissioner IHREC

15 January 2018



Dear Ms Logan,

An Irish Times article on 16 December 2017 says that you will be asking the next Commission meeting to consider the issue of foreign funding for civil society organisations under Standards in Public Office law. You are quoted as saying that there is concern among civil society organisations regarding the impact of this law on the work of civil society organisations in Ireland.

Atheist Ireland has the opposite concern. We are a civil society organisation, and we base our campaigns on human rights. We have publicly supported this law for several years before the current issue arose. We believe that the SIPO law is a good law, for Irish democracy and for civil society. We believe that it should be strengthened, not weakened or undermined.

Atheist Ireland asks the Commission to consider the SIPO law in general under functions 10.2 (b) and 10.3 (d) of the IHREC Act 2014, and/or any other relevant provisions of the IHREC Act, and to specifically consider the recommendations that we suggest in section 1.

Can you please pass this submission on to the other Commissioners?

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Yours sincerely,

1. What we are asking the IHREC Commissioners to consider

Atheist Ireland asks the Commission to consider the matter under the following functions in Section 10 of the IHREC Act 2014, and/or any other relevant provisions of the IHREC Act:

Reviewing the adequacy and effectiveness of the law

Function 10.2 (b) to keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights and equality.

Under this function, we ask you to consider that the SIPO law needs to be strengthened not weakened. This would enable us, and other civil society organisations, to campaign on human rights issues, on a fair and equal basis, in a battle of ideas not bank accounts.

We ask you to reject hyperbolic comparisons of the SIPO law with Hungarian and Russian laws, and false claims of blanket bans on foreign donations.

We also ask you to consider four ways that the SIPO law should be strengthened:

- While maintaining limits on political donations, the trigger for being accountable should be moved away from political donations and towards political spending.
- Both political spending and political donations over a set threshold, and their sources, should be published.
- For referendum campaigns, there should be limits on spending, and anonymous donations should be banned, as recommended by the Citizens' Assembly.
- There should be a periodic review mechanism added to the law.

Encouraging fair and equal opportunity to participate in political life

Function 10.3 (d) [to encourage and support the development of a society where] each person has a fair and equal opportunity to participate in the economic, political, social or cultural life of the State.

Under this function, we ask you to consider publicly encouraging civil society organisations to comply with the SIPO law as it stands, while also lobbying for any changes they want.

Otherwise those of us who are complying with the law as it stands, while others refuse to, do not have a fair and equal opportunity to participate in the political life of the State.

The SIPO Commission, which includes a former High Court judge and the Ombudsman, is as impartial and fair a body as your Commission. IHREC should explicitly support SIPOC's work in implementing the law as it stands.

Impartial consideration by IHREC

One of the IHREC Commissioners has a conflict of interest in this matter, and should recuse himself. As Executive Director of the ICCL, this Commissioner has already lobbied the relevant Government Minister to weaken this law, and has issued a public statement on the issue titled: 'Election regulations are shutting down civil society.' This Commissioner also publicly liked a tweet saying Atheist Ireland are 'assholes' for publicly supporting the implementation of this law. This is inappropriate behaviour for a statutory Human Rights and Equality Commissioner, acting in any capacity.

2. Atheist Ireland's experience with the SIPO Commission

Atheist Ireland is registered with the SIPO Commission as a Third Party. We have never found SIPOC to be ambiguous or inconsistent in their interpretation or enforcement of the Act. Complying with it has not in any way prevented us from functioning effectively.

During early 2015 Atheist Ireland contacted SIPOC to see if we had to register under The SIPO law. We went over all of our activities, fully and honestly, and SIPOC explained that we would have to register, as we had received donations for political purposes that exceeded the limit.

The major political activity that we were engaged in, and for which we sought donations, was our political campaign for a secular education system, as well as our political campaigns to change other laws. The Commission was clear to us that the requirement to register applied all of the time, and was not confined to campaigning during elections and referendums. Indeed there was not and is not any referendum being considered in the area of education reform.

In March 2015, Atheist Ireland registered as a Third Party with SIPOC. Since we signed up with SIPOC, we have turned down large political donations, in order to comply with SIPO regulations. We are a small voluntary organisation and very grateful for any donations. We put all of our lawful donations to good use, and we would never jeopardise our campaigns by misleading SIPOC in relation to any donations offered or received.

During 2017, Atheist Ireland was crowdfunding to use the Freedom of Information Act to seek information about the influence of the Catholic Church in ETB Schools, in order to change the laws governing this. We asked the Commission for guidance about these donations. SIPOC told us that donations for that purpose would be political donations. We complied with that.

3. SIPOC's explanatory notes for Third Parties in 2015

In September 2015, SIPOC issued a set of Explanatory Notes for Third Parties. This made clear that the legal definition of political purposes included:

4. To promote or oppose, directly or indirectly, the interests of a third party in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to a policy or policies or functions of the Government or any public authority.

6. Otherwise to seek to influence the outcome of the election or a referendum or a campaign. (Note from Atheist Ireland: it is significant here that 'a campaign' is included separately to an election or a referendum.)

These explanatory notes are not remotely ambiguous. They are indeed all-encompassing, and deliberately so. They have to be if the law is to work. They are the basis upon which we have consistently experienced SIPOC to conduct their work, ever since we signed up as a Third Party.

Amnesty Ireland says that SIPOC told Amnesty in 2016 that a €137,000 donation complied with the law, then SIPOC changed its mind about this in 2017. Amnesty says that it has no idea why SIPOC changed its mind. SIPOC says that it didn't change its mind or its approach. SIPOC says that it accepted what Amnesty told them in 2016. Then SIPOC says it got new evidence in 2017, which contradicted what Amnesty told them in 2016.

Amnesty is asking us to accept that SIPOC has told them something contrary to what SIPOC has been telling Atheist Ireland since 2015, and contrary to SIPOC's Third Party Explanatory Notes of 2015. This would mean that a former High Court Judge, the Ombudsman, and the other SIPO Commissioners, have been unjustly targeting Atheist Ireland but not others since 2015, and that they have just now started to target Amnesty as well. We do not believe that this is credible.

4. The law was strengthened in 2015 after complaints about Youth Defence

The SIPO law has not changed, but SIPOC has been able to apply them more robustly since 2015. The reason is that the law was then amended, making it an offence to fail to co-operate with enquiries made by the Commission.

SIPOC had previously sought these changes in its 2009 report about enforcement of the law with Third Parties after the Lisbon Treaty. ¹ In particular, they had difficulties with Libertas, who repeatedly failed to provide required information regarding its donations.

SIPOC made four suggestions for improvements to the law regarding: Criteria for registration as a third party; Registration for a particular campaign; Transparency in funding and expenditure on campaigns; and Sanctions for non-cooperation with the Standards Commission.

SIPOC also sought this increase in its powers of enforcement in order to be able to take action against Youth Defence. ² In 2012 Youth Defence had published billboard advertisements showed images of young, distraught women and fetuses and carrying slogans such as 'Abortion tears her life apart,' and 'There's always a better answer,' with the word 'always' underlined.

The Advertising Standards Authority received more than 100 complaints about Youth Defence's billboard ads, which were described as 'offensive and inaccurate'. However, the Advertising Standards Authority said it was powerless to do anything about the concerns because banning the ads would amount to a breach of freedom of speech.

SIPOC then received complaints about Youth Defence refusing to register as a Third Party. SIPOC said that it was 'firmly of the view' that the activities of Youth Defence could be defined as 'political purposes,' but that it did not have the legal powers to force Youth Defence to furnish any information or documents that the Commission needed to do its work.

In 2013 SIPOC wrote to Phil Hogan, the then environment minister, seeking an increase in its powers of enforcement over organisations involved in political activity. SIPOC's chairman, Justice Matthew Smith, told Minister Hogan that it was 'impossible for the commission to operate effectively' in the area of abortion campaigning. ³

The Act was strengthened in 2015, to include sanctions for non-cooperation with the Standards Commission. It is this strengthening of the Act, after problems with Libertas and Youth Defence, that has enabled SIPOC to implement the law more robustly in cases like Amnesty's refusal to comply.

5. The amendment to the Electoral Act in 2015

In 2015, Section 5 of the Electoral (Amendment) Act 2015 made it an offence to fail to co-operate with enquiries made by the Commission. It did this by amending Section 4 of the Electoral Acts 1997. Section 4 previously read:

4.4. The Public Offices Commission may make such inquiries as it considers appropriate and may require any person to furnish any information, document or thing in the possession or procurement of the person which the Commission may require for the purposes of its duties under this Act.

The amendment added:

4.4 (a) Where a person fails to comply with a requirement made of him or her under subsection (4) within such time as the Standards in Public Office Commission considers reasonable, it may direct the person to furnish it with such information, document or thing specified in the direction within such period of time mentioned in the direction and, if the person fails to comply with the direction within that period, the person commits an offence and is liable on summary conviction to a class D fine. ⁴

SIPOC welcomed this in its 2015 annual report, saying that:

The Standards Commission welcomes the amendment of Section 4 of the Electoral Acts 1997 as amended. The Commission had previously requested that sanctions for non-cooperation with the Standards Commission should be reviewed (2009 Report on Third Parties at the Referendum on the Treaty of Lisbon 2008). In particular, the Commission had recommended that failure to cooperate with enquiries made by the Standards Commission under section 4(4) of the Electoral Act should constitute an offence. Section 5 of the Electoral (Amendment) Act 2015 now makes it an offence to fail to co-operate with enquiries made by the Commission. ⁵

6. How the SIPO law needs to be strengthened further

The SIPO law needs to be strengthened further, while maintaining limits on political donations.

The first way is by setting a different trigger for when a body must declare their funders. This now happens when a body gets certain donations that are described as being for a political purpose.

Instead it should happen when a body (whether an organisation or an individual person) spends a certain amount on political purposes. The SIPO Commission itself has recommended this change in its 2016 annual report, and has suggested €5,000 as the relevant amount of spending.

The Commission has noted in previous annual reports the difficulties with the current legislative provisions with respect to Third Party registration.... The test is to do with the intent of the giver rather than the use of funds by the recipient.

The Commission is of the view that the definition of what constitutes a 'Third Party' should not be determined on the basis of whether an individual/group has received a donation, but rather should focus on spending by the individual/group. ⁶

The second way is that both political spending and donations and their sources, above a certain threshold, should be published so that the public knows who is funding what campaigns.

The third way is the following recommendations of the Citizens' Assembly on referendums:

- 68% voted that the Government should provide money to both sides equally in referendum campaigns.
- 98% voted for the Oireachtas to implement a system of spending limits in referendum campaigns for registered political parties, campaign groups, and individuals.
- 72% voted for anonymous donations to political parties and campaign groups to be banned.

It is worth noting that the Citizens' Assembly did not recommend weakening the SIPO requirements on political donations, despite hearing from experts on, and discussing, this issue.

The fourth way is to include a periodic review mechanism in the law.

While we and others are lobbying for these changes, it is essential that the SIPO law is not weakened or subverted in a way that allows lobby groups to flood the country with more unlawful donations, particularly in the run-up to the referendum to repeal the eighth amendment.

7. Some human rights campaigns are political, and others are not

Amnesty Ireland has argued that campaigning for human rights is not a political activity. This is conflating the reason for promoting a political purpose, with the act of promoting a political purpose.

Under the SIPO law, a donation has a political purpose if it is aimed at influencing the outcome of an election or referendum, or changing a law or another political outcome. But that does not mean that all campaigning related to human rights is promoting a political purpose under the SIPO law.

- Some human rights campaigns will involve trying to change a political outcome, and will therefore come under the SIPO law.
- Other human rights campaigns will not involve trying to change a political outcome, and will therefore not come under the SIPO law.

For example, Amnesty Ireland campaigns on many issues that would not come under the SIPO law. They can attract unlimited donations for these campaigns, while still complying with the SIPO law with regard to political activities.

- Supporting the Ibrahim Halawa legal case was non-political
- The Sofar Give a Home event was non-political
- Highlighting the torture that occurs in Jordanian jails, on behalf of a man in front of Irish courts facing deportation to Jordan, was non-political
- The Never Forgotten event to support the victims of torture was non-political

8. Irish CSOs can receive unlimited foreign donations under the SIPO law

Contrary to recent claims, there is no blanket ban on foreign funding for Irish Civil Society Organisations under SIPO legislation, for either non-political or political purposes.

(a) unlimited foreign donations for non-political purposes

An Irish CSO can receive unlimited foreign donations, from any individual foreign donor, for non-political purposes, such as those listed in point 7 above.

(b) almost Unlimited foreign donations for political purposes

There are legitimate and proportionate conditions for how an Irish CSO can receive foreign donations for political purposes.

- The donor has to have a relevant connection to Ireland, either through being an Irish citizen living abroad or being a corporate body with a relevant office based in Ireland.
- Such a donor can give the same amount as a donor in Ireland can give for political purposes.

Within these legitimate and proportionate conditions, an Irish CSO can receive almost unlimited foreign donations, specifically for political purposes. They just have to get those by way of a large number of small foreign donations, rather than a small number of large foreign donations.

There are an estimated 3 million Irish passport holders living abroad.⁷ If just 500 (or 0.0001%) of them gave an Irish CSO €2,500 a year, that would be €1.25 million a year, specifically for political purposes. If just 55 (or 0.00001%) of them gave €2,500 each, that would be the lawful equivalent of the €137,000 that Amnesty has received unlawfully.

9. The foreign element in the Amnesty case is a distraction

Whatever statement the Commission makes on this issue, many people will inevitably read into it implications for the directive from SIPOC that Amnesty must return the €137,000 donation from the Open Society Foundation.

IHREC should make clear that the general issue of foreign donations is a distraction from Amnesty's legal obligations with specific regard to this €137,000 donation. Even if Amnesty had got this money from an Irish source, it would still have been way over the legal limit.

A Third Party can only accept €2,500 in a calendar year from a single registered corporate donor. Amnesty accepted €137,000 from the Open Society Foundations, more than fifty times the legal limit, even if it had come from Ireland.

10. Sources cited by opponents of the law

Amnesty Ireland and/or the ICCL have cited the following sources in support of their contention that the Electoral Act breaches their human rights:

- Ireland's UNHRC Resolution on protecting civil society space
- European Commission infringement proceedings regarding a Hungarian law on funding NGOs
- Statements made by the UN Special Rapporteur on Human Rights Defenders

None of the positions described within these citations support the arguments that opponents of the law are making. Using these references in this context conflates two different issues.

- The first issue is the negative impact that a blanket ban on all foreign funding can have, on the work of NGOs, CSOs and HRDs.
- The second issue is the negative impact on the quality of democracy that can arise from large political donations made by wealthy special interests.

Each of these issues has separate human rights implications. However, in each case the citations refer to the former issue, whereas the Electoral Act in Ireland deals with the latter issue.

11. Ireland's UNHRC Resolution on protecting civil society space

The specific reference to funding in Ireland's United Nations Human Rights Council (UNHRC) Resolution on protecting civil society space, expresses concern that: ⁸

“... in some instances, domestic legal and administrative provisions, such as national security and counter-terrorism legislation, and other measures, such as provisions on funding to civil society, have sought to or have been misused to hinder the work and endanger the safety of civil society ...”

We agree that blanket bans on funding, and other measures that hinder the work of CSOs, and that endanger the safety of CSOs, are concerning and should be opposed. However, the Electoral Act in Ireland does none of these things. In fact, the same UNHRC Resolution notes that:

“... domestic legal and administrative provisions and their application should facilitate, promote and protect an independent, diverse and pluralistic civil society ...”

Ensuring that there are diverse and pluralistic CSOs in Ireland, whereby the public debate is not dominated only by those NGOs with the wealthiest supporters, is exactly the goal that the provisions of the Electoral Act seek to achieve.

Atheist Ireland believes therefore, that Ireland's UNHRC Resolution on protecting civil society space, supports and reinforces the need for the provisions of the Electoral Act.

In contrast, the concerns expressed about funding in this Resolution, relate only to broad limitations on funding in general, and say nothing about narrow funding issues that relate specifically to special interests financing political purposes.

12. EU Infringement Proceedings with respect to Hungarian law

The specific concern that the European Commission expressed with respect to the Draft Law on CSOs in Hungary, which relates to the funding of CSOs, is as follows: ⁹

“The period of three years during which a civil society organisation may not receive any foreign funding in order to be entitled to initiate a deregistration procedure (Article 4 of the Draft Law) is quite long and appears arbitrary.”

We agree with the European Commission that blanket bans on CSO funding, for any purpose, are concerning with respect to possible breaches of CSO human rights. However, that is not what the SIPO law in Ireland does. They deal only with threshold limits, not blanket bans, and only on donations specifically for the political purpose of changing the law or other political outcomes.

In fact, within their infringement proceedings, the European Commission has provided an explicit comparison of the relevant legislation in a number of countries. Amnesty Ireland has represented that the law in Ireland is more restrictive than that in Hungary, but this is not the view of the European Commission. The comments made by the European Commission on the legislative framework in Ireland are as follows:

“In Ireland, while there is no NGO law and no explicit limitation on NGOs being funded internationally, the Electoral Act 1997 prohibits international funding of “third parties” and this might affect NGOs when involved in political activity or political campaigns or election campaigns.”

So, while Amnesty has cited the European Commission infringement proceedings against Hungary in support of the position that the Electoral Act in Ireland abuses human rights, in fact this document states that there is no limitation on Irish NGOs being funded internationally.

Irish NGOs can raise as much money as they like from home or abroad, without limitation. As described by the European Commission, the restrictions in Ireland apply with respect to funding for political campaigns, which is a welcome and necessary limitation.

Controls on political funding are not only consistent with the human rights of CSOs, they are required to ensure respect of the human rights of all CSOs. For this reason, Amnesty’s €137,000 donation would have been illegal whether it originated from a foreign or domestic source.

13. Amnesty Ireland's previous position on the Hungarian law

Amnesty Ireland is now arguing that the Irish SIPO law is worse than the draft Hungarian law. But when Amnesty Ireland commented on the draft Hungarian law in June 2017, Amnesty’s complaints about the Hungarian law were as follows: ¹⁰

“In reality, the impact of the law will be the targeting of NGOs that carry out functions such as promoting the rule of law, protecting the rights of refugees, migrants and other marginalised groups, and providing social and legal services not sufficiently offered by the state.”

The Irish SIPO law does not do any of the things that Amnesty was complaining that the draft Hungarian law proposed to do. It is simply not credible to claim now that the Irish law is more draconian than the Hungarian law.

14. Statements by United Nations Special Rapporteur

The UN Special Rapporteur on Human Rights Defenders has also made several statements on the funding restrictions that apply to NGOs in several countries. For example, with respect to the pertinent law in Azerbaijan, the UN Special Rapporteur has said the following: ¹¹

“Even if the legislation does not ban NGO activities without state registration, NGOs are effectively prevented from operating because they cannot open a bank account, obtain a legal status or receive foreign funding.”

We agree with the UN Special Rapporteur, with respect to the restrictions on NGOs imposed by the legislative framework in Azerbaijan. Similar comments have been made by the UN Special Rapporteur on Human Rights Defenders, where blanket funding bans apply to NGOs in other countries. However, no such restrictions are applied to NGOs by the Electoral Act in Ireland.

But the UN Special Rapporteur has also visited Ireland just six months after the Electoral (Amendment) Act 2012 became law, and subsequently published a detailed report.¹² If the Electoral Act had been viewed as representing an abuse of the human rights of NGOs, HRDs and CSOs in Ireland, it would have formed a central part of this report. However, the UN Special Rapporteur on Human Rights Defenders did not mention the Electoral Act at all.

The report did include a detailed analysis of the legal, institutional and policy framework in which Irish NGOs operate. For example, it referred to difficulties with the Charities Act, Defamation Act, Garda Síochána Act, Whistle-blower Protection Act and Prevention of Corruption Amendment Bill. Specific recommendations were made in these and other areas, and the concerns of NGOs were outlined in some detail. However, no concerns were expressed in relation to the Electoral Act.

In fact, the UN Special Rapporteur on Human Rights Defenders summarised the legal, institutional and policy framework for HRDs in Ireland as follows:

“The overall legal, institutional and administrative framework in which defenders operate generally meets international standards and is rather conducive to the defence and promotion of human rights.”

It is not credible to suggest that while the UN Special Rapporteur has highlighted concerns with the funding of NGOs in other countries, this same human rights abuse was also apparent in Ireland but was omitted from the Special Rapporteur’s statement following her visit to Ireland. The political funding controls in Ireland are not related to, or equivalent to, the blanket bans on NGO funding that have caused human rights concerns elsewhere.

15. Right to take part in the conduct of public affairs

Article 21 of the Universal Declaration of Human Rights¹³ guarantees equal suffrage within democratic elections. Article 2 of the UDHR prohibits discrimination based on property. The human right to equal suffrage can be compromised if wealth disparities imply that some special interests have a disproportionate influence on democracy. This is a problem that has been well documented in many countries and this is the issue that the Electoral Act seeks to remedy.

Article 25 of the International Covenant on Civil and Political Rights¹⁴ also guarantees the right “to take part in the conduct of public affairs,” to vote “at genuine periodic elections which shall be by universal and equal suffrage... guaranteeing the free expression of the will of the electors,” and to access public service “on general terms of equality,” and without any of the distinctions in Article 2, which includes property. The word ‘property’ is translated as ‘fortune’ in the French version and as ‘economic position’ in the Spanish version.

If those with more wealth are able to acquire a disproportionate influence in the conduct of public affairs, then such discrimination represents an infringement on these human rights.

16. The United Nations High Commissioner for Human Rights

The Office of the United Nations High Commissioner for Human Rights has already dealt with this issue explicitly. Comment 25 on the Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service, Paragraph 19 includes the following statement:¹⁵

“Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined, or the democratic process distorted, by disproportionate expenditure on behalf of any candidate or party.”

Consequently, the suggestion, that placing limitations of the funding of political campaigns is a human rights abuse, is not supported. Of course, it is entirely legitimate to discuss the annual foreign and domestic funding limits in the Electoral Act. In fact, these limits have already been considered and revised by the Oireachtas, based on experience of their operation.

Several other suggested changes to the Electoral Act are also legitimate. For example, Atheist Ireland has argued that the trigger for defining a political purpose should be met when money is spent on such a purpose, rather than when it is donated for such a purpose, and that spending and donations above a certain threshold, and their sources, should be published.

However, the argument that such funding restrictions necessarily involve a human rights abuse, is not well-founded. Rather, there is a stronger argument that such funding controls with respect to the political process, are necessary to guarantee the human rights of all Irish CSOs.

17. Limiting the impact of money on politics supports human rights

The position of Atheist Ireland, as described herein, has been widely adopted by many international human rights bodies. For example, the Overbrook Human Rights Foundation offers grants to NGOs that campaign on human rights, including those campaigning on the human rights breaches that arise from the excessive influence of money on politics.¹⁶

In 2015 Overbrook gave grants in the area of Money and Politics to eight American public policy organisations including:¹⁷

- Demos, whose first overarching commitment is achieving true democracy by reducing the role of money in politics and guaranteeing the freedom to vote.¹⁸
- Free Speech for People, whose mission is to renew democracy and the United States Constitution for 'we the people,' not big money and corporate interests.¹⁹

These issues have also been discussed at length elsewhere, such as the Harvard Human Rights Journal. For example, in a paper titled 'The Democracy to Which We Are Entitled: Human Rights and the Problem of Money in Politics', Fulbright Senior Scholar Timothy Kuhner, discusses whether we have a human right to a democracy or a plutocracy.²⁰

Such considerations include the ongoing influence of money on the political process and the formation of new law in many circumstances, which include the periods both during or outside of an election process.

For example, on 3rd February 2016, then Taoiseach Enda Kenny called a general election, which was to take place on 26th February 2016. The suggestion that the Electoral Act should only deal with donations that are made during the few weeks between an election or a referendum being called and polling day, would clearly be inadequate. By definition, new law is created outside of such processes, and so legislation ensuring that the influence of money on our democracy is consistent with the human rights obligations of the Irish State, must remain in force at all times.

18. The case of the HAI and Education Equality

The ICCL has cited the case of the advocacy group Education Equality in its criticism of the law. Specifically, the ICCL has said:²¹

"ICCL is particularly concerned that some of our fellow human rights organisations, including Amnesty International and Education Equality, have recently been requested to return funding under the legislation. For Education Equality this has meant that they spent most of 2017 fighting this directive instead of carrying out their vital advocacy work and it will have a significant impact on their campaigning in 2018 too."

This creates the false impression that SIPOC was preventing a civil society group from carrying out its advocacy work. That is simply untrue. There was nothing preventing Education Equality from carrying out its advocacy work during 2017, and there remains nothing to prevent them from doing so during 2018.

Atheist Ireland works in the same area of advocacy, and we have been perfectly able to carry out our work while complying with the SIPO law.

To understand why Education Equality refused to comply with a lawful directive from SIPOC, it is important to examine its relationship to another group, the Humanist Association of Ireland.

The Humanist Association of Ireland (HAI) supports the Civil Registration Amendment Act, which breaches human rights in the most overt way of any law passed in recent years in Ireland. As well as discriminating against and between atheists, this law forbids secular marriage solemnisers (but not religious ones) from promoting a political cause. Atheist Ireland has been seeking to have this law changed ever since it was passed. ^{22 23 24}

However, the HAI signed up to this overtly discriminatory law, in order that they could solemnise secular marriages. They do this in a way that makes large personal profits for their entrepreneur celebrants, as private individuals, rather than for the organisation. They are also breaching another aspect of the law by running profit-making businesses around their effective monopoly on an essential public service that is legally a non-profit service.

The HAI then tried to get around their inability to legally promote a political cause by funding a new organisation, with an overlap of members, that could legally promote a political cause. Thus the HAI funded Education Equality to start up. However, they did so with a donation that breached the SIPO limit for political donations, and without registering as a corporate donor. Education Equality was on the register of political lobbyists, but was not registered as a Third Party.

When Atheist Ireland expressed our concerns about these breaches of several laws, and the associated unethical behaviour, HAI board members invited us to report them to SIPOC and the Civil Registration authorities. We did this, just as we have reported breaches of other laws to IHREC and other oversight bodies. It is an important part of our ethos to challenge the Irish nod-and-wink culture of pretending that laws do not mean what they say. ^{25 26}

If Education Equality was genuinely an independent campaign group with no connection to the HAI, it could have simply complied with the SIPOC directive and continued with its advocacy work, in the same way as Atheist Ireland does. It is not the responsibility of SIPOC that this tangled web of groups and interests chose to fight a lawful directive instead of doing their work.

19. Conclusion

To conclude, Atheist Ireland asks the Commission to consider the matter under functions 10.2 (b) and 10.3 (d) of the IHREC Act 2014, and/or any other relevant provisions of the IHREC Act, and to specifically consider the recommendations that we suggest in section 1 above.

Notes

- ¹ <http://m.sipo.gov.ie/en/Reports/General-Reports/Reports-on-Third-Parties/-Referendum-on-the-Treaty-of-Lisbon/Third-Parties-Treaty-of-Lisbon.pdf>
- ² <http://www.irishexaminer.com/ireland/sipo-seeks-powers-to-act-on-youth-defence-complaints-239895.html>
- ³ <http://www.irishexaminer.com/ireland/law-could-force-youth-defence-to-reveal-funds-240128.html>
- ⁴ <http://www.irishstatutebook.ie/eli/2015/act/62/enacted/en/print#sec5>
- ⁵ http://www.sipo.ie/en/Reports/Annual-Reports/2015-Annual-Report/AnnualReport2015/media/sipoc_ar_2015_english.pdf
- ⁶ http://www.sipo.ie/en/Reports/Annual-Reports/2016-Annual-Report/AnnualReport2016/media/sipoc_ar_2016_english.pdf
- ⁷ <http://www.globalirish.ie/issues/how-many-irish-people-live-abroad-an-ean-factsheet/>
- ⁸ <https://www.irishaid.ie/media/irishaid/allwebsitemedia/20newsandpublications/publicationpdfsenglish/unga-resolution-on-civil-society-space.pdf>
- ⁹ [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)015-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)015-e)
- ¹⁰ <https://www.amnesty.ie/hungary-ngo-law-vicious-calculated-assault-civil-society/>
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