



Labour

**Submission by the Labour Party
to An Coimisiún Toghcháin on
the review of Dáil and European
Parliament Constituencies.**

May 2023

The Labour Party in making this submission to An Coimisiún Toghcháin, the Electoral Commission for the review of Dáil and European Parliament constituencies seeks to address three key grounds which we outline below in detail:

1. [The number of Dáil seats.](#)
2. [Achieving proportional representation and multi-seat constituencies.](#)
3. [The arrangement of European Parliament Constituencies.](#)

1. The number of Dáil seats

The critical determinant of Dáil constituency boundaries will be how many additional seats the Commission decides on. At present all but one of the current constituencies breach the constitutional maximum of 30,000 people per TD. Between 2016 and 2022 the overall population grew by 7.6%.

The Commission can decide on the number of seats in a range from 171 and not more than 181. It is our view that an even number of seats should be retained. If the Commission agrees on maintaining an even number of seats then at least an extra 12 are required to bring the national ratio of population per TD below 30,000.

Further, it is our view that if the maximum number of additional seats (20 or 21) is not chosen, then radical reshaping of constituency boundaries will be needed to adjust populations, which will make it more difficult for the Commission to have regard to the conditions outlined by the Oireachtas including avoiding the breach of county boundaries as far as practicable and endeavouring to maintain continuity.

The Commission should also have regard to continued population growth. If the arrangement of constituencies is not future proofed then the next review of boundaries will similarly have to add seats and make further significant changes.

While the most recent rate of population growth (6.7% over six years) may not be maintained over the next five years, a lower 5% increase to the current Irish population would provide in a 180 seat Dáil for a population per TD of 29,887 which would be just under the constitutional limit.

It is our view that adding 20 additional seats would provide increased certainty for the next decade on the proposed new arrangement of constituencies. Increasing the Dáil up to 180 seats would provide for an average population of 28,464 per TD.

2. Achieving proportional Representation and multi-seat constituencies

The Labour Party wishes to restate to An Coimisiún Toghcháin the thrust of a submission made to the 2017 Constituency Commission, without complete success perhaps, and we take the opportunity to repeat our viewpoint to this new body.

Firstly, it is disappointing that the government did not return to allowing 6 seat Dáil constituencies which would make the issue of redrawing maps significantly easier for the Commission. It would be welcome if the Commission did express an opinion on this matter.

We believe the Commission must bear in mind the nature and purpose of our electoral system, PRSTV in multi-seat constituencies. Or rather purposes, because it has two. On the one hand, our system is one of proportional representation and so is designed to ensure that there are as few 'wasted' votes as possible. For example, under a straight past the post system, a candidate would certainly win with 50% of the votes plus one. In such a case 50% minus one of the voters would be unrepresented – their votes would be wasted. And, if there were more than two candidates, the winning candidate could well have much less than 50% of the vote.

PR is designed to ensure that, as far as practicable, a vote cast is not wasted, and that it continues to work in the count until an effective form of representation is achieved. This ensures a reasonably proportionate overall result, in terms of a parliamentary configuration that matches the votes cast.

On the other hand, while a single State-wide constituency would achieve near perfect congruence as between votes and seats, it would miss the local representative element that is also important. Our TDs must be returned by constituencies that are recognisable as coherent and contiguous.

We believe that, having regard to the People's choice of proportional representation as our electoral system, the duty of the Commission is to secure, as far as practicable, a result in terms of seats that is proportionate to the votes cast.

In that regard, we believe it is instructive to recall precisely why the review of constituencies was first entrusted to an independent body. The 1973-1977 Government had enacted a review of the constituencies that entailed a proliferation of 3-seat constituencies in urban and suburban areas, where it believed the parties in Government were popular. They anticipated that a slight preference in their favour in those areas would result in a disproportionate seat bonus which would, hopefully, cancel out losses in other parts of the State.

In the event, the slight preference went the way of the Opposition, and the proliferation of 3-seaters ensured the largest ever Dáil majority for the incoming Government.

The point to stress here is that the arrangement of constituencies was not constitutionally impermissible, but it was nonetheless widely considered – and eventually conceded by its authors – to have been improper.

It was in order to guard against any future such impropriety that the Constituency Commission was established.

It must, accordingly, having regard both to first principles and history, be regarded as part of the mandate of the Commission that it should propose an arrangement of constituencies which, taken as a whole, is most likely to produce a proportionate result.

Our STV system is a compromise between the extremes of straight past the post, on the one hand, and a State-wide list, on the other. It is therefore different from other forms of PR in one important way: the State-wide result is compiled from the results in a large number of relatively small constituencies.

We submit to the Commission that a principal purpose of a constituency review is to ensure that PR-STV operates as intended. While there are many forms of PR, their common underlying purpose is to ensure that political parties are returned to parliament in proportion to their share of the overall vote.

We accept that, of course, many extraneous factors will influence proportionality of outcome: a vote cast in a constituency with a small turnout is more 'valuable' than the vote of an elector in a high turnout constituency; again, there may be a disparity in the number of (non-voting) children or non-nationals that make up the population of different constituencies.

While these are recognised and acknowledged phenomena, they are, however, extraneous to the remit and control of the Commission. Our concern is that the Commission should not add to but should rather seek to minimise influential factors that may lead to a disproportionate result.

And that entails a critical examination of the number of 3-seat constituencies – which are after all the phenomenon that brought independent constituency reviews into being in the first place.

It has long been accepted that the size of constituencies is a variable which impacts upon proportionality. The larger the number of seats per constituency, the greater the prospect of voter preference being proportionately reflected in the allocation of seats between the parties.

That being so, it might be expected that the number of five-seat constituencies would predominate and that recourse to three and four-seaters would be a departure from the norm, justified by special circumstances.

That, of course, is not the case. Over the decades the reverse happened, and the five-seat constituency became an exception rather than the rule.

The corollary is that the number of three-seat constituencies increased, thereby diluting the proportionality effect of the system as a whole.

The much discussed 'bonus seat' phenomenon is accentuated by the predominance of three and four-seat constituencies, which distorts the proportionality of the system. Again, the corollary is that the surest guarantee of a high degree of proportionality is to have a large number of five-seat constituencies.

Returning to the history of our constituencies, it will be recalled that, during the 1960s and 1970s, even though the constituencies adopted after the *O'Donovan* Case may have complied in formal terms with constitutional requirements, there were continuing controversies about the redrawing of the constituencies.

On one side of the then political divide, the 1969 revision of the constituencies drew criticism on the grounds that, having failed in an effort to abolish PR in a referendum, the Government was intent on subverting the system by reducing its proportionality effect.

This reduction in proportionality was achieved not only by increasing the number of three-seat constituencies and reducing the number of five-seaters but also by concentrating the three-seaters in regions where the vote of one party was strongest.

There was an increase in the number of three-seaters from 17 to 26 and a reduction in the number of five-seaters from 9 to 2. The impact on the proportionality of the system as a whole was profound.

On the other side of the political divide, what happened under the 1973-1977 Government might be seen as a retaliation, which resulted in a major shift in the location of three-seaters, from west of the Shannon to the Dublin area.

The upshot of decades of controversy over the electoral system was that the parties called a truce, and that periodic revision of the constituencies was depoliticised and made the responsibility of an independent commission.

But what the history emphasises is that it is not only the proportionality of population to TD – the constitutional criterion – that has the potential to skew an election. When the politicians were responsible for redrawing the boundaries, they did so acutely aware of the fact that the larger the number of members per constituency, the more likely it was that a proportionate result will ensue. On the other hand, smaller constituencies returning fewer members would produce more disproportionate representation.

Our submission is that such an outcome, even if constitutionally permissible, is an adverse outcome as a matter of principle.

Given that the extent of such an outcome will in the end come down entirely to the model for constituencies that the Commission settles upon, a skewed and unrepresentative outcome is one that the Commission must be alive to and must be anxious to avoid.

If it is accepted that proportionality and constituency size are inversely correlated, and that the larger the size of constituencies, the greater the proportionality of the system as a whole, then in our submission the Commission should openly and consistently favour larger constituencies, choosing smaller ones only where considerations of reasonable practicality require this to be done.

From a reading of, for example, the 2012 Constituency Commission Report, it is clear that this was not the approach adopted on that revision. Page 13 of that report includes the following paragraph:

In complying with the constitutional requirements and terms of reference, the Commission endeavoured to suit the constituency size to the population and particular circumstances of each locality. It is not a constitutional or statutory criterion that the arrangement of constituencies should seek to achieve any particular number of or balance between the three constituency sizes.

However, the 2017 report repeated the paragraph just quoted, but went on to show a slightly different approach:

In complying with the constitutional requirements and the terms of reference, the Commission endeavoured to suit the constituency size to the population and particular circumstances of each locality. It is not a constitutional or statutory criterion that the arrangement of constituencies should seek to achieve any particular number of, or balance between, the three constituency sizes.

In the Commission's recommendations, summarised in paragraph 1.2, the balance in constituency size shifts towards larger constituencies compared to the current arrangement. A number of submissions recommended that there should be more 5 seat constituencies and fewer 3 seat constituencies. In response to those submissions the Commission examined the scope for further increasing the number of 5 seat constituencies but this was not feasible, as outlined in section 4 of this report, having regard to the Commission's terms of reference.

The reasons given for unfeasibility, outlined in section 4 of that report, can be seen by taking Fingal as an example. The Commission acknowledged that the population of Fingal County was at that time equivalent to 10 seats in a 160 member Dáil. So, it examined the possibility of having the entire county of Fingal contained in two Dáil constituencies, in a two 5-seat formation. But: "Having regard to the good variances in the existing constituencies, to the very significant population transfers that would be required and to the knock-on effects on the other constituencies in the area the Commission decided to recommend no change in Dublin Fingal and Dublin West".

Nonetheless, we recognise that the 2017 proposals did represent a shift in thinking. The number of 3-seat constituencies was reduced from 13 to 9, while the number of 5-seaters increased from 11 to 13.

The significant increase in the number of Dáil seats that will result from the current review affords an opportunity to take this trend further. However we do note that many current 5 seat constituencies will require new boundaries, and where these relate to those based in a county, this will likely result in a further increase in three and four seat constituencies through internal subdivision, to account for population growth. Whereas if the Commission could provide for 6 seat constituencies this trend would be avoided.

In summary on our submission on achieving proportional representation, it is true that the Constitution does not explicitly require that the arrangement of constituencies should achieve a balance between the three constituency sizes. But, on a purposive interpretation of its statutory remit, the Commission's *raison d'être* is not only to protect the integrity of PR-STV from political bias or interference but also to ensure that the electoral system functions as intended by the Constitution.

After all, if a proliferation of 3-seaters produces a skewed result that would be considered improper if it was engineered by party politicians, then surely it would still be improper even if it was independently designed. The outcome remains open to criticism, with or without an ulterior motive.

We submit that a fundamental requirement for the Commission in performing this review function must be to protect and give effect to the proportionality of the system as a whole, as constitutionally intended.

And we also submit that this should where feasible take precedence over secondary or mechanical considerations, such as continuity in relation to the arrangements of constituencies, or regard for significant physical features.

It follows that the Commission should be guided by the fundamental need to ensure as close an approximation as practicable between votes cast and the seats won, so that proportional representation is achieved in practice.

This objective requires in turn that the appropriate balance between the different sizes of constituency should be acknowledged from the start as an important policy question and should not simply emerge in an *ad hoc* way, as the consequence of "suiting the constituency size to the population and particular circumstances of each locality".

Relegating constituency sizes to a subsidiary criterion – almost an after-thought – means that the necessary redrawing, cutting and pasting that the Commission's task entails may result in a drift towards arrangements with ever more disproportionate overall outcomes. We submit that the Commission should secure against such a drift, by making an explicit *ex ante* option in favour of larger constituencies.

If PR-STV is to behave properly as a system of proportional representation, the Commission should have at least a provisional view from the start as to the configuration of constituency sizes which it believes would best guarantee a reasonable degree of proportionality between the votes cast for the parties and the seats won by them.

In conclusion, we submit –

- i. The current configuration of constituency sizes still at least in part frustrates the intent of the Constitution and the will of the people. A further increase in the number of either three or four-seaters would only serve to add to the current distortion in the translation of votes into seats, and should be resisted. The trend towards a larger number of larger constituencies should be maintained.
- ii. As previously outlined, the Commission should increase the overall number of seats to the even maximum permitted by law. This would, to the extent permitted, stabilise the situation by future-proofing the constituencies against inevitable further incremental changes. It would also give the Commission flexibility to achieve the goal of ensuring as many larger multi-seat constituencies as possible.

3. European Parliament Constituencies

The current constituency arrangements for the European Parliament without the addition of further seats are satisfactory and within the bounds of historical variance. As we have argued for Dáil constituencies, the Commission should retain the larger 5 and 4 seat constituencies and avoid 3 seat constituencies.

We do note that Ireland will gain at least one MEP seat, and potentially a second. The final confirmed decision will be made in May.

14 MEP seat scenario

If Ireland gains one seat then 14 MEP seats would provide for an average population of 365,967 people per MEP. In this scenario Midlands North West should become a five seater and the counties of Laois and Offaly transferred from South, returning to the arrangement first recommended in the 2013 and 2017 report before the addition of two additional seats after Brexit, as recommended in the 2018 report.

Revised EU Constituency (14 seat scenario)	Population 2022	Seats	Variance from national average population per MEP
Dublin	1,450,701	4	-0.90%

Midlands North West (with Laois and Offaly)	1,824,109	5	-0.31%
South (minus Laois and Offaly)	1,848,726	5	+1.03%

15 MEP seat scenario

If Ireland receives two additional seats, then the Commission should provide for three 5-seat constituencies as this will provide for the best achievable level of proportional representation and continuity with the current arrangements.

We are proposing again a minimal level of change, from the current arrangements, where Co. Offaly would transfer to Midlands North West; and Co. Wicklow would be joined with Dublin to form a new East constituency, providing for three 5-seat constituencies. The variance in this scenario from the national average population per MEP would be less than the current satisfactory arrangements.

Other arrangements for combining a county in Leinster with Dublin to form a new 5-seat constituency could be considered, such as Kildare or Meath, and we considered these options, however this would not be as geographically contiguous, and it would require further significant change in the other constituencies to balance population therefore not maintaining continuity with the current arrangements. The two largest population centres in Co. Wicklow of Bray and Greystones are well connected to the greater Dublin area with the DART, while the coastal N11 motorway and intercity train line connects the four largest urban areas of Bray, Greystones, Wicklow town and Arklow to Dublin. The fifth largest town, Blessington is on the river Liffey, and adjacent to South County Dublin to which it is connected by the N81.

Revised EU Constituency (15 seat scenario)	Population 2022	Seats	Variance from national average population per MEP
East (Dublin/Wicklow)	1,606,186	5	-5.95%
Midlands North West (plus Offaly)	1,732,452	5	+1.44%
South (minus Offaly and Wicklow)	1,784,898	5	+4.51%

ENDS