

PETI Fact-finding visit to Donegal, Ireland

30 October - 1 November 2023

General information

Ireland, officially the Republic of Ireland, is an independent state in the North Atlantic Ocean in north-western Europe. It covers five-sixths of the island of Ireland, with Northern Ireland, which is part of the United Kingdom, making up the remaining sixth. The nation shares maritime boundaries with the UK.



Ireland joined the European Union on 1 January 1973 and adopted the euro on 1 January 1999. The official languages of the nation are English and Irish (also known as Gaelic). Ireland is a member state of the United Nations, as well as a member of the World Trade Organisation, and the European Union (including the Euro-area). It has a population of just over 5 million, with over 500,000 living in the country's capital and largest city, Dublin.¹ The nation is divided into 31 local authorities, which comprise 26 county councils, 3 city councils (Cork, Dublin, Galway), and 2 city and county councils (Limerick, Waterford). The number of inhabitants varies from over 500,000 living in Dublin to the smallest council being Leitrim county council, with 35,000 residents.² Local authorities are responsible for delivering a broad range of services in relation to roads, traffic, housing, etc. Council members are elected every five years to a local electoral area and make policy decisions by majority resolutions during council meetings.³

In terms of its political structure, Ireland operates as a parliamentary democracy, following the Westminster system, with a president serving as the head of state. The executive authority is exercised collectively by the Council of Ministers and the Prime Minister, who serves as the head of government. The President of the Republic is elected directly, serving a five-year term and eligible for re-election once. Currently, the President is Michael D. Higgins, representing the Labour Party. President Higgins assumed office in 2011 and secured

¹ https://european-union.europa.eu/principles-countries-history/country-profiles/ireland_en

² CSO, Population Census 2022 FY003A <https://data.cso.ie/>

³ <https://www.gov.ie/en/organisation-information/26251-local-government-structure-and-functions/?referrer=http://www.housing.gov.ie/local-government/administration/local-government-administration>



re-election for a second term in 2018. Notably, the President holds the authority to propose or veto legislation and has occasionally exercised this power. At present, Leo Varadkar serves as the Prime Minister.⁴

The Irish Parliament is bicameral. It comprises two chambers, a Lower House, Dáil Éireann, and an Upper House, Seanad Éireann. Dáil Éireann is currently comprised of 160 Members of Parliament (TDs)⁵. These TDs are elected for a 5-year term using a proportional voting system with a 5% electoral threshold. Dáil Éireann holds the ultimate authority when it comes to passing legislation. It is worth noting that in the summer of 2021, the Government parties lost their majority in Dáil Éireann. However, they have been able to secure the approval of laws with the support of other TDs.⁶

On the other hand, Seanad Éireann, or the Senate (the Higher Chamber), consists of 100 Senators who serve 4-year terms. Senators are elected through a first-past-the-post electoral system. While the Senate has the power to reject or amend bills that have been passed by Dáil Éireann, it can be overruled by an absolute majority vote in the lower chamber. Notably, the Senate has a majority of Senators from opposition parties, which has frequently resulted in the blocking of laws that were approved by Dáil Éireann.⁷



Building block issues

Since 2013, many houses in the Irish Counties of Mayo, Limerick, Donegal, and Clare have been exhibiting severe cracking on their external walls. The numbers of affected homes are estimated to be between 5,000 and 10,000. These counties are home to a significant portion of the Irish population, with approximately

⁴ <https://www.oireachtas.ie/en/visit-and-learn/how-parliament-works/role-of-the-oireachtas/>

⁵ A Teachta Dála, abbreviated as TD, is a member of Dáil Éireann, the lower house of the Oireachtas (the Irish Parliament). It is the equivalent of terms such as Member of Parliament (MP) or Member of Congress used in other countries.

⁶ <https://www.oireachtas.ie/en/visit-and-learn/how-parliament-works/role-of-the-oireachtas/>

⁷ <https://www.oireachtas.ie/en/visit-and-learn/how-parliament-works/role-of-the-oireachtas/>

137,970 residents in Mayo, 209,536 in Limerick, 167,084 in Donegal, and 127,938 in Clare.⁸ While a precise count of the total affected properties remains elusive, local campaign groups in areas like Donegal have estimated that around 5,000 houses have been impacted. The comprehensive exploration of this matter is essential given its potential implications extending beyond the currently recognised affected counties.⁹

In 2016, the Irish government appointed the Expert Panel on Concrete Blocks to carry out a desktop study to establish the nature of the problem in the affected dwellings. The Expert Panel came to the conclusion that the reason for the widespread pattern cracking in private dwellings was primarily due to the excessive amount of deleterious materials in the aggregate used to manufacture the concrete blocks. They found the deleterious material in County Donegal primarily to be muscovite mica while in County Mayo it was primarily reactive pyrite, which led to poor freeze / thaw resistance. Moreover, the panel found that severe cold weather in parts of the 2009 / 2010 and late 2010 winters exacerbated the cracking.¹⁰

The Mica Action Group has reported that building blocks containing up to 1% mica content are generally considered safe, with excessive mica concentrations posing a risk to the structural integrity of these blocks by causing water absorption and eventual crumbling.¹¹ In recent investigations, engineers have identified building blocks of Irish dwellings with a mica content of up to 57%. This issue has raised concerns about the compliance of construction materials with safety and quality standards, as well as potential risks to homeowners and affected communities.¹²



However, a study carried out by Leemann et al using in-depth microstructural analysis found that the damage in the homes is likely due to internal sulfate attack, particularly triggered by pyrrhotite oxidation. The authors suggest that the presence of mica in concrete blocks can affect compressive strength, but that

⁸ CSO, Population Census 2022 FY003A <https://data.cso.ie/>

⁹ <https://www.irishtimes.com/politics/2023/07/12/remediation-of-houses-with-defective-blocks-could-cost-2bn-without-fully-resolving-issues/>

¹⁰ <https://www.gov.ie/en/publication/0218f-report-of-the-expert-panel-on-concrete-blocks/>

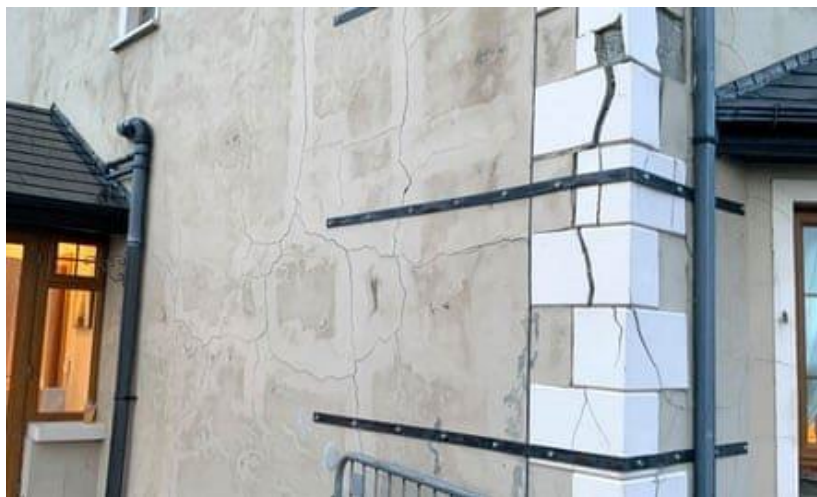
¹¹ <https://www.micaactiongroup.com/frequently-asked-questions/>

¹² <https://www.theguardian.com/world/2021/oct/07/blocks-like-weetabix-how-mica-scandal-upended-lives-in-ireland>

it should not be a concern for compressive strength based on the required standards. They also argue against frost as the main cause of the observed damage. Leemann et al further demonstrated that the sulfur content of the aggregates considerably exceeds the limit value defined by the European standard for concrete aggregates (EN 12620).¹³

Engineers Ireland has emphasised the necessity for further research to establish a robust standard for addressing the issue of defective concrete, particularly considering that some dwellings dating back to 1994 have been found with elevated muscovite mica and pyrrhotite levels. An Oireachtas committee, led by Green Party TD Stephen Matthews, is actively examining the new remediation scheme and evaluating the industry's capacity to prevent similar defects in the future.¹⁴

In 2021, thousands of homeowners from counties Donegal and Mayo gathered in Dublin, demanding an expanded redress scheme for properties impacted by pyrite and mica issues. Homeowners sought 100% coverage for rebuilding costs within the remediation scheme, as opposed to the 90% of the original grant scheme. Minister for Housing Darragh O'Brien also called for contributions from concrete block manufacturers and insurance companies. The original Defective Concrete Blocks Grant Scheme faced criticism for its grant limits.



Grant Scheme

In January 2020, Ireland introduced a Grant Scheme aimed at assisting homeowners affected by certain issues in remediating their homes. Recently, an 'Enhanced' Grant Scheme was presented to address shortcomings observed in the original grant program. However, it has been noted that only a relatively small percentage of affected homeowners have met the eligibility criteria for this grant scheme thus far. Furthermore, those who do qualify for the grant must have the financial means to cover the upfront capital costs associated with remediation works before they can claim the corresponding grant payments.¹⁵

Ireland introduced the Enhanced Defective Concrete Blocks Grant Scheme, aimed at providing financial assistance to homeowners affected by the deterioration of their dwellings due to the use of defective

¹³ Leemann et al, 2023. The "mica crisis" in Donegal, Ireland – A case of internal sulfate attack? <https://www.sciencedirect.com/science/article/pii/S0008884623000613>

¹⁴ <https://www.irishtimes.com/politics/2023/07/12/remediation-of-houses-with-defective-blocks-could-cost-2bn-without-fully-resolving-issues/>

¹⁵ <https://www.gov.ie/en/service/8002e-enhanced-defective-concrete-blocks-grant-scheme/?referrer=http://www.gov.ie/defectiveconcreteblocks/#what-the-enhanced-defective-concrete-blocks-grant-scheme-is>

concrete blocks. This scheme has been established to address the deficiencies found in the original grant scheme, which had limitations that hindered its effectiveness. The Society of Chartered Surveyors Ireland (SCSI) has now submitted straight rebuild costs after looking at eight types of homes hit by the scandal. It concluded that costs would range from €150,000 for a two-bedroom estate house to €421,000 for a five-bedroom, two-storey rural home.¹⁶

To be eligible for the Enhanced Defective Concrete Blocks Grant Scheme, homeowners must meet certain criteria. The Enhanced Grant Scheme offers five remedial options for affected homeowners in Clare, Donegal, Limerick, and Mayo. The maximum grant for each option is determined by grant rates set by the Minister, with an overall grant cap of €420,000. The specific amount granted varies based on the Housing Agency's determination.¹⁷

Petitions

Petitions 0789/2021, 0790/2021, 0799/2021, 0800/2021, 0801/2021, 0813/2021, 0814/2021, and 0837/2021 raise concerns about the defective quality of certain building blocks due to the presence of mica in breach of EU legislation in Ireland. The petitioners are calling for the introduction of an effective reparation plan and criticise Irish authorities for lacking in their efforts to protect the Irish citizens who live in the affected homes.

In its response, the European Commission stated that setting requirements for the use of construction products and safety of buildings and civil engineering works remains exclusively the competence of the Member States (recitals 1 to 4 of the Regulation). Furthermore, Member States are also responsible for inspections of the construction sites and the final construction works (building control) as well as inspections of construction products being placed on the market (market surveillance). In the case that the products were already defective when placed on the market, homeowners may seek compensation from producers for damage to property caused by a defective product under Council Directive 85/374/EEC (the 'Product Liability Directive').¹⁸ Further, homeowners who bought the defective construction materials from professional sellers also have rights under Directive 1999/44/EC (the 'Consumer Sales and Guarantees Directive'), including the right to rescind the sales contract.¹⁹

Applicable legislation

In their complaint, Coleman Legal, a law firm representing the petitioners, claims that EU legislation was breached in Ireland. According to them, the building blocks do not meet the standards of Art. 3 and Annex I to Dir. 89/106 on construction products (later Annex I to Reg. 305/2011).²⁰ According to these legislative acts, Member States must ensure that products intended for consumers are "safe products" and meet certain requirements regarding mechanical resistance and stability (Art. 3(1) of Dir. 92/59 and Art. 3(1) of Dir. 2001/95).²¹ Coleman Legal claim that defective concrete blocks are not "safe products" and that the Irish authorities failed to detect these problems and to protect consumers.²²

¹⁶ <https://www.theguardian.com/world/2022/mar/03/irish-homeowners-hit-by-mica-building-scandal-welcome-report>

¹⁷ <https://www.gov.ie/en/service/8002e-enhanced-defective-concrete-blocks-grant-scheme/?referrer=http://www.gov.ie/defectiveconcreteblocks/#what-the-enhanced-defective-concrete-blocks-grant-scheme-is>

¹⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31985L0374>

¹⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31999L0044>

²⁰ Coleman Legal Complaint

²¹ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A31989L0106>

²² Coleman Legal Complaint

Furthermore, the petitioners claim that market surveillance regulations were breached, particularly Arts 16 and 19 of Reg. 765/2008, during the period from January 1, 2010, to July 1, 2013, as Ireland did not grant any entity market surveillance powers for construction products under Reg. 765/2008, and the country did not report any market surveillance activities to the European Commission during that timeframe. Subsequently, from July 1, 2013, local authorities, the County Councils, were entrusted with market surveillance functions. However, these actions were largely reactive, depending on public complaints rather than proactively implementing risk assessments as outlined in Art 19 of Reg. 765/2008. It was also noted that these local authorities faced resource limitations. The petitioners argue that this approach was inadequate and should have been recognised as such by the Irish authorities, given past issues, such as those with pyrite, dating back to approximately 2007.²³

The petitioners also claim that one quarry, Cassidys, is believed to have been involved in the manufacture of defective concrete blocks. The National Standards Authority of Ireland (NSAI), a public body, had certified Cassidys under the Construction Products Regulation 305/2011.²⁴ However, it is alleged that NSAI only withdrew the certification in 2021, despite indications that defects in the blocks should have been detected at an earlier stage. There were allegations of insufficiencies in NSAI's supervision practices as per the requirements outlined in Art 52 and Annex V of Reg. 305/2011.²⁵

The National Building Control & Market Surveillance Office in partnership with Donegal County Council and Geological Survey Ireland in Q3 of 2021 investigated the matter and carried out an audit of all quarries in County Donegal. Their report concluded that there were levels of non-compliance with the requirements of the Construction Products Regulation 305/2011. The issues primarily related to errors in and omissions of the paperwork and were found not reflect a concern with the tested performance of the actual product.²⁶ The Irish authorities announced plans to conduct further research in the area of deleterious material in concrete blocks, focusing on the impact of Pyrrhotite on the long-term durability of concrete blocks.

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²³ Coleman Legal Complaint

²⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011R0305>

²⁵ Coleman Legal Complaint

²⁶ <https://www.gov.ie/en/press-release/6489d-publication-of-report-of-the-market-surveillance-of-construction-products-produced-from-county-donegal-quarries/>