

Submission to the Joint Committee on Key Issues affecting the Traveller Community

Irish Human Rights and Equality
Commission

February 2021



**Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas**
Irish Human Rights and Equality Commission



**Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas**
Irish Human Rights and Equality Commission

Submission to the Joint Committee on Key Issues affecting the Traveller Community

Irish Human Rights and Equality Commission

February 2021

16 – 22 Green Street, Dublin 7, D07 CR20 T (01) 858 9601 | F (01) 858 9609 | E info@ihrec.ie |
www.ihrec.ie

Contents

Introduction.....	3
Housing law and Travellers' rights	3
Discrimination and disadvantage in housing and accommodation	5
IHREC legal casework on Traveller accommodation	10
Update on Equality Reviews on Traveller accommodation	12
Observations on Traveller accommodation by international human rights monitoring bodies	13
Council of Europe	13
United Nations	14
COVID-19 and Traveller Accommodation	17
Concluding Remarks	18

Introduction

There is a demonstrable history of chronic racism and discrimination against Travellers in Ireland. While the recognition of Travellers as an ethnic minority on 1 March 2017 was a welcome and long-overdue development,¹ this important political statement has been found by the High Court to have no legal effect.² The adoption of the *National Traveller and Roma Inclusion Strategy 2017–2021* is also to be welcomed, as is the commitment to develop a successor strategy that has a stronger outcomes focused approach.³ However, Travellers continue to experience systemic discrimination in Irish society and face significant barriers to the enjoyment of the rights to healthcare, education, decent work,⁴ as well as adequate and culturally appropriate housing and accommodation.⁵

Traveller accommodation is the focus of this submission, which has been prepared for the information of the Joint Committee on Key Issues affecting the Traveller Community. The Commission made a submission on this topic to the Committee in January 2020, but this was not considered prior to the dissolution of the Dáil on 14 January 2020.

Housing law and Travellers' rights

Section 42 of the *Irish Human Rights and Equality Commission Act 2014* (2014 Act) places a positive duty on housing authorities as public bodies to perform their functions, having regard to the need to eliminate discrimination, promote equality of

¹ The State's recognition of Traveller ethnicity was reflected in a statement made by An Taoiseach Enda Kenny TD in Dáil Éireann. See Dáil Éireann, [Traveller Ethnicity: Statements](#), 1 March 2017.

² *Mongans v. Clare County Council* [2017] IEHC 709, (Unreported, High Court, Eager J., 27 October 2017)

³ Department of An Taoiseach (2020), [Programme for Government: Our Shared Future](#).

⁴ D. Watson, O. Kenny, and F. McGinnity (2017), [A Social Portrait of Travellers in Ireland](#) (ESRI).

⁵ Recent research by the EU Fundamental Rights Agency (FRA) highlights the disadvantage and discrimination experienced by Travellers. In employment, 17% of Traveller women and 13% of Traveller men have paid jobs compared to 68% of Irish women and 80% of men generally. Regarding education, 70% of Travellers aged 18-24 years finished lower secondary education (the junior second level cycle up to junior certificate), and are not in further education or training, compared to 5% of young Irish people generally. In respect of health, more Irish Travellers have (severe) limitations due to health problems (29%) than people generally in Ireland (17%), and Travellers' life expectancy is 8 years shorter than people generally in Ireland. Regarding accommodation, 24% of Travellers face severe housing deprivation, 30 times more than people generally in Ireland (0.8%). In terms of poverty, 40% live in households that have (great) difficulties to make ends meet, compared to 8% for people generally in Ireland. Some 28% of Traveller children in Ireland grow up in severe material deprivation. See EU FRA (2020), [Travellers in Ireland: Key Results from the Roma and Traveller Survey 2019](#).

opportunity and treatment of persons to whom it provides services and to protect the human rights of those persons.

Section 3(2) of the *Equal Status Acts 2000-2018* provides that as between any two persons, the prohibition on discrimination may include different treatment on the basis:

“...that one is a member of the Traveller community and other is not (the “Traveller community ground”)...”⁶

In recent years, there has been a consistently high number of cases where membership of the Traveller community was cited as the reason for a complaint under this legislation.⁷ As outlined below, IHREC has provided legal assistance to a number of Travellers, in particular, in cases regarding the requirement to have a fixed address for a period of time in order to access social housing, which leads to indirect discrimination against Travellers, particularly those who may have lived within the functional area of a local authority, but who live a nomadic lifestyle and/or have occupied an unauthorised site, for example by the roadside.⁸

Prior to 1988, the statutory framework did not differentiate between the housing needs of Travellers and the settled community. In *University of Limerick v. Ryan*,⁹ the High Court held that the duty to provide social housing and in particular the obligation imposed on housing authorities by section 13 of the *Housing Act 1988* (“the 1988 Act”) to address the needs of Travellers extended to providing halting sites, and not only dwellings or houses. While it was a significant judgment, the relatively small number of halting sites constructed in the State demonstrates that it had little impact on the development of public policy.

⁶ S.2, Equal Status Act 2000 defines “Traveller community” for the purpose of the Act as, “... the community of people who are commonly called Travellers and who are identified (both by themselves and others) as people with a shared history, culture and traditions including, historically, a nomadic way of life on the island of Ireland.”

⁷ In 2017, 408 of 1113 complaints lodged with the Workplace Relations Commission cited discrimination on the ground of membership of the Traveller community as being the basis for a complaint Workplace Relations Commission, *Annual Report 2017*, p. 23. These included discrimination complaints relating to accommodation provision. See A Visser, Oireachtas Library and Research Service, *Traveller Accommodation: The challenges of implementation*, p. 28.

⁸ see IHREC, *County Council Criterion for Traveller Family Access to Services Discriminatory*, 10 May 2018, available at: <https://tinyurl.com/1pt4dgdg>.

⁹ *University of Limerick v. Ryan*, (Unreported, High Court, Barron J, 21 February 1991).

The *Housing (Traveller Accommodation) Act 1998* is the most significant legislative development to have occurred in this area. Amongst other things, it recognises Travellers as belonging to a group who pursue a nomadic way of life; it places a mandatory obligation on housing authorities such as the Council to carry out assessments of the accommodation needs of Travellers in their functional areas, to publish accommodation programmes every five years detailing the provision of accommodation required to address those needs, and to take “reasonable steps” to ensure the said programmes are implemented.¹⁰

The Traveller Accommodation Expert Review, an independent body established by the Government, has said that the 1998 Act is in need of “overhaul”, as it has failed to meet the scale of accommodation needed by the Traveller community, as evidenced by an “extremely high rate of Traveller homelessness,” an increase in those living in “overcrowded conditions”, and the uneven record of local authorities in developing Traveller-specific accommodation.¹¹

Discrimination and disadvantage in housing and accommodation

Commission-funded research on *Discrimination and Inequality in Housing in Ireland* demonstrates that Travellers face high levels of discrimination, overcrowding, and higher risks of homelessness. The report found that Travellers are almost ten times more likely to report discrimination in access to housing. While Travellers represent less than 1% of the Irish population, they make up more than 9% of the homeless population. The vast majority (84%) of Travellers living in caravan or mobile home accommodation reside in over-crowded conditions. Only 16% of Travellers owned their own home, compared to 72% for the non-Traveller population. Travellers are exceptionally reliant on social housing, with just under half (49%) being social renters. The proportion of Travellers lacking heating and sanitary facilities is higher than it is for

¹⁰ See sections 29, 6-7 and 16, the 1998 Act.

¹¹ Traveller Accommodation Expert Review, July 2019, p.1, available at: <https://tinyurl.com/18tlg94j> [accessed: 3 February 2021].

the general population, with 2% of Travellers having no piped water and 3% not having a sewerage connection.¹²

Further relevant research findings illustrate the marginalisation faced by Travellers in respect of housing and accommodation.¹³

In terms of overcrowding, nearly 40% of Traveller households have more persons than rooms compared with less than 6% of all households.¹⁴ Traveller households have on average 5.3 persons per household, in comparison to 4.1 persons per household for the general population.¹⁵ Almost one in three Traveller households with children have six or more people living there.¹⁶ 10% of Traveller families share a halting site bay or household with another family.¹⁷

In respect of housing conditions, there are significant issues with existing halting sites and group housing schemes, including:

- damp and mould;
- lack of cooking facilities;
- rat and fly infestations;
- insecure electricity; and
- irregular or no rubbish collections.¹⁸

Travellers represented 7.5% of the total number of homeless persons counted in *Census 2016*.¹⁹ Traveller children comprise 12% of the homeless children residing in emergency accommodation, despite Travellers only comprising 1% of the population.²⁰ Concerns have been raised that the scale of homelessness among Travellers is underestimated, as Travellers may experience difficulties in accessing emergency

¹² See R. Grotti, H. Russell, É. Fahey, and B. Maître (June 2018), *Discrimination and Inequality in Housing in Ireland* (IHREC and ESRI).

¹³ IHREC (2020), *Comments on Ireland's 17th National Report on the Implementation of the European Social Charter*.

¹⁴ Central Statistics Office, *Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion: Socioeconomic Aspects and Housing*.

¹⁵ Central Statistics Office, *Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion: Socioeconomic Aspects and Housing*.

¹⁶ Department of Children and Youth Affairs (2020), *Young Travellers in Ireland*, p. 41. Available to download at: <https://assets.gov.ie/72732/824dc1d2acaf4e5a93d88e640ae1ef0f.pdf>.

¹⁷ RTÉ News (26 September 2019), *Travellers - Life on the fringes*.

¹⁸ Galway Traveller Movement, *First Monitoring Report: A survey of accommodation conditions on Traveller halting sites and group housing schemes in Galway City and County* (July 2018) p. 15. See also Kitty Holland, *Galway Travellers continue to live in mouldy, rat infested facilities, report finds*, Irish Times (28 May 2019).

¹⁹ CSO, *Census of Population 2016 – Profile 5 Homeless Persons in Ireland*.

²⁰ RTÉ News (26 September 2019), *Travellers - Life on the fringes*.

accommodation if they move between local authority operational areas, and because the data fails to capture the extent of 'hidden homelessness' among Travellers sharing overcrowded housing.²¹

Diversity within the Traveller population must also be considered in relation to Traveller accommodation issues. Travellers have significantly higher rates of disability than the general population with almost 1 in 5 Travellers (19.2%) recorded as having a disability in Census 2016.²² This has significant implications in terms of accessibility considerations arising in the provision of Traveller accommodation.

There has also been an increase in the number of Traveller families relying on private rented accommodation, an increase in the number of Traveller families sharing housing and, despite the general decline since 2002, a large number of Traveller families continue living on unauthorised sites.

- From 2007 to 2019, the number of Traveller families in the private rented sector increased from 1,143 to 1,919, representing 17.8% of the total number of Traveller families.
- The number of Traveller families sharing housing increased from 435 to 933 between 2007 and 2019, accounting for 8.7% of the total number of Traveller families as of 2019.
- There were 529 Traveller families living on unauthorised sites in 2019, representing 4.9% of the total number of Traveller families.²³

Notwithstanding the evident discrimination, marginalisation and need faced by Travellers in respect of housing, there have been well-documented issues relating to the drawdown of Traveller specific accommodation funding by local authorities.²⁴ There has been ample evidence of a consistent underspend of the Traveller-specific accommodation budget and the failure to provide agreed units identified in Traveller

²¹These concerns were raised by Traveller organisations in submission to the Expert Review Group on Traveller Accommodation. See Joyce et al. (July 2019), [Traveller Accommodation Expert Review](#), p.14-15.

²² CSO, [Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion](#).

²³ Based on the Department of Housing, Planning and Local Government's Traveller Accommodation Statistics. Available at <https://www.gov.ie/en/collection/29c76-traveller-accommodation-statistics/>.

²⁴ The term 'Traveller specific accommodation' is typically used to refer to group housing schemes, and transient and permanent halting sites (whether authorised or unauthorised). This is also commonly referred to as 'culturally appropriate' accommodation. Culturally appropriate accommodation is potentially compatible with a range of culturally specific needs, including nomadism, proximity to family, access to horses and other social and economic activities.

Accommodation Programmes.²⁵ According to the recent *Expert Review on Traveller Accommodation*,²⁶ between 2008 and 2018, the Department of Housing, Planning and Local Government allocated a total capital budget of €168.8 million to local authorities for the provision and refurbishment of Traveller-specific accommodation. 66% of this total allocation (€110.6 million) was drawn down by local authorities.²⁷ Also of note is that of the funding that was drawn down between 2006 and 2018, some 54% was spent on refurbishing or extending existing Traveller sites, rather than on providing new units.²⁸

Arrangements for the disbursement of funding for the provision of Traveller specific accommodation changed in 2020. The Department has ceased the practice of allocating specific budgets to individual local authorities and it is instead open to all local authorities to apply for and draw down funds at any time throughout the year.²⁹ The Commission notes that this change in process coincided with the Department's capital budget of €14.5m for Traveller Accommodation being drawn down in full in 2020 (in comparison, €8.65m of the €13m budget was drawdown in 2019, and €6.26m of the €12m budget drawdown in 2018).³⁰

The Commission welcomes the full draw down of the Department's 2020 Traveller accommodation budget, but notes that of the 116 new accommodation units provided, 82 were 'COVID-19 mobile units', of which, 43 were for 'self-isolation purposes', 16

²⁵ RSM (June 2017), [Research Report: Review of Funding for Traveller-Specific Accommodation and the Implementation of Traveller Accommodation Programmes](#).

²⁶ The group was established by the Minister of State for Housing and Urban Development, Damien English T.D., to review the Traveller Accommodation Act 1998, and other legislation that affects the provision and delivery of accommodation for Travellers. The aims of the Expert Group were to review the effectiveness of the 1998 Act, determine if it provides a robust legislative basis for meeting the current and future accommodation needs of the Traveller Community, and to review other legislation that impacts on the delivery of Traveller-specific accommodation. See Joyce et al. (July 2019), [Traveller Accommodation Expert Review](#).

²⁷ However, if the proportion of this funding retained by the Department of Housing, Planning and Local Government as a central reserve is excluded from this calculation, the local authority drawdown rate rises to 72. See Joyce et al. (July 2019), [Traveller Accommodation Expert Review](#), p38.

²⁸ See Joyce et al. (July 2019), [Traveller Accommodation Expert Review](#), p. 42.

²⁹ The Minister for Housing, Local Government and Heritage recently stated: "Following a review of the arrangements for the disbursement of funding for the provision and related supports of Traveller specific accommodation a new allocation process was implemented for 2020. My Department has ceased the practice of allocating specific budgets to individual local authorities. Instead, it is open to all local authorities to apply for and drawdown funds at any time throughout the year and this is actively encouraged by my Department. My Department's capital budget of €14.5m for Traveller Accommodation was drawn down in full in 2020." See [Traveller Accommodation, Dáil Éireann Debate, Wednesday - 27 January 2021](#).

³⁰ See [Traveller Accommodation, Dáil Éireann Debate, Tuesday - 24 November 2020](#).

were 'group housing units', 3 were 'mobiles' and 15 were 'acquisitions'.³¹ This means that almost one third of new units provided in 2020 were mobiles for self-isolation purposes, rather than secure and adequate housing that will meet the accommodation needs of Traveller families in the medium to long term. In addition, nine local authorities had not drawn down any funding as of October 2020,³² indicating that inconsistencies between local authorities likely remain in the delivery of Traveller accommodation, despite the budget as a whole being drawn down in full.

The *Expert Review on Traveller Accommodation* also documents clear shortcomings in the provision of accommodation, including the quality of available information on the accommodation needs and preferences of the Traveller population.³³ While local authorities contend that Travellers express a preference for standard social housing, submissions by representatives of the Traveller community to the Expert Review state that Travellers feel pressured to apply for standard social housing. Travellers feel that they will not be able to secure Traveller-specific accommodation, such as shared housing, transient or permanent halting sites due to the low number of Traveller-specific accommodation available.

In this context, the Commission notes the Expert Review Group's recommendation that the Department 'amend the regulations which govern the methodology local authorities use to conduct Social Housing Assessments in order to:

- (a) Enable Travellers (and all other applicants for social housing) to specify their first, second and third preference in terms of accommodation type' and
- (b) Introduce an 'ethnic identifier' so that Traveller applicants for mainstream social housing can be identified and progress in meeting their housing needs monitored effectively'.³⁴

³¹ As stated by the Minister for Housing, Local Government and Heritage in [Traveller Accommodation, Dáil Éireann Debate, Wednesday - 27 January 2021](#).

³² As stated by the Minister for Housing, Local Government and Heritage in [Traveller Accommodation, Dáil Éireann Debate, Wednesday - 21 October 2020](#). The local authorities in question Cork County; South Dublin; Longford; Louth; Meath; Mayo; Waterford; Westmeath; and Wicklow

³³ See Joyce et al. (July 2019), [Traveller Accommodation Expert Review](#), pp. 16-19.

³⁴ See Joyce et al. (July 2019), [Traveller Accommodation Expert Review](#), pp.23-24

The Commission recognises the ongoing efforts to consider and progress the recommendations of the Expert Review Group,³⁵ and urges that there be no undue delay in respect of this work.

IHREC legal casework on Traveller accommodation

Pursuant to section 40 of the 2014 Act, the Commission may provide legal assistance (i.e. advice and/or representation) to members of the public in relation to matters of human rights and/or equality law.

Since its establishment, the Commission has provided assistance to members of the Traveller community in cases that have related predominantly to access to housing/accommodation and discrimination.

Our work in this regard reveals issues of significant concern including:

- Traveller families living in alarming levels of deprivation, for example:
 - a family, including a new born baby, sleeping in the family car for months, including over the winter period;
 - a family, including children with serious medical needs, living in a caravan without the most basic of facilities – including running water;
 - families (including members recovering from surgery for serious illnesses) living for protracted periods on so-called 'temporary' halting sites that are wholly unsuitable for human habitation due to a lack of basic facilities (e.g. electricity, running water, sanitation), as well as sub-standard environmental conditions (e.g. vermin, proximity to waste facilities, severe pollution); and
 - a family living in 'settled' accommodation in seriously overcrowded conditions, impacting on the quality of life of all family members, and most notably on that of one child with a significant disability and complex medical needs.

³⁵ The Minister of State at the Department of Housing, Local Government and Heritage recently indicated that a programme board has been established to drive the implementation of the recommendations contained in the Traveller Accommodation Expert Review report. It was also indicated that the Department is progressing a number of short term recommendations and that working groups are working on others. See [Traveller Accommodation - Dáil Éireann Debate, Wednesday - 20 January 2021](#).

- Traveller families facing serious barriers in accessing both Traveller-specific accommodation and housing. These difficulties arise in their engagement with both the public and private sectors, for example:
 - In 2018 the Commission represented a member of the Traveller community whose request to an estate agent to view a rental property was declined because the estate agent stated that the property was no longer available. However, when a friend of the woman, who is not a member of the Traveller community, subsequently sought to view the same property, the estate agents said it was still available and arranged a viewing for them. The Commission provided legal representation to the woman and referred a complaint to the Workplace Relations Commission (WRC), which was resolved at the mediation stage;³⁶
 - In a case taken by the Commission’s legal team, the WRC held that a Traveller family was discriminated against in their application for social housing support because the relevant local authority had unlawfully introduced an additional criterion (i.e. of lawful residence) under the social housing assessment scheme. The local authority had refused their application on the basis that the family was not normally resident in the local authority area for the purposes of the Social Housing Assessment Regulations 2011 because they were illegally residing on private property;³⁷ and
 - The Commission provided legal representation and successfully challenged Donegal County Council’s decision to defer a Traveller family’s housing support, with particular emphasis on the Council’s decision-making process, including the fact that the decision was made without any opportunity for input from the family. Following the launch of High Court proceedings the Council agreed to quash its original decision to defer the housing support and to reconsider the family’s application.³⁸

As a matter of record, the Commission has also been granted leave to intervene as a third party intervener before the European Court of Human Rights in the cases of *Faulkner v Ireland* and *McDonagh v. Ireland*, which relate to the right to accommodation for Travellers. Pursuant to section 10(2)(h) of the 2014 Act, the Commission has now made submissions in these matters, which will be published once the matters have been heard.

³⁶ IHREC (2018), [Annual Report 2018](#), p57.

³⁷ IHREC (2018), [Annual Report 2018](#), p56.

³⁸ IHREC (2017), [Annual Report 2017](#), p40.

Update on Equality Reviews on Traveller accommodation

Section 32 of the 2014 Act gives the Commission statutory powers in relation to the carrying out of Equality Reviews and the preparation of Equality Action Plans.

Under these powers, the Commission may invite a particular undertaking, group of undertakings or the undertakings making up a particular industry or sector thereof to carry out an Equality Review or to prepare and implement an Equality Action Plan, or both. The Commission may also itself, if it thinks appropriate, carry out an Equality Review, or prepare an Equality Action Plan, in relation to any undertaking of 50 or more employees or a group of such undertakings.

An Equality Review or Equality Action Plan may relate to equality of opportunity generally, or a particular aspect of discrimination, within an undertaking or group of undertakings. The specific undertakings requested to carry out Equality Reviews and the focus of the reviews are a matter within the discretion of the Commission, having regard to its areas of focused work and its strategic priorities.

On 25 June 2019, the Commission invited each of the 31 local authorities in the State to undertake an Equality Review of their provision of accommodation to members of the Traveller community.

In carrying out their Equality Review, each local authority was asked to conduct an audit of the level of equality of opportunity and/or discrimination that exists in relation to members of the Traveller community who wish to avail of Traveller-specific accommodation.

Each local authority was invited to undertake a review on the performance of their services and to report on a number of key questions, including:

- their practices and procedures related to the provision of Traveller accommodation;
- the amount of funds each council has requested to draw down from Government over the last 4 years and the use of that money;
- whether Traveller accommodation projects are being completed, and if not, why not?;
- the amount drawn down from Government for standard housing over the same period;
- the impact of any failure to draw down funds on their meeting of statutory duties to provide specific accommodation for Travellers; and

- the details of funds applied for in respect of provision of Traveller-specific accommodation in 2019.

Each local authority was requested to deliver their Equality Review to the Commission by 3 September 2019 (i.e. within 10 weeks). One local authority delivered its Equality Review within this timeframe and one delivered by 12 September 2019.

29 other local authorities sought an extension of time to carry out and deliver their own reviews, due to limited staff capacity during the summer holiday period. Extensions were granted until 3 October 2019 and a further 20 reviews were received by the agreed extended deadline.

The nine remaining reviews were received over the following months, with the final review received on 12 December 2019. The Commission has since carried out extensive analysis of all 31 equality reviews, and this resulted in follow-up requests to local authorities, with some responses received over the 2020 summer period.

Following completion of its review, which has been somewhat delayed due to the impact of Covid-19, the Commission will take a decision on each individual equality review as to whether further action is necessary and if so, the nature of this action.

As the process has not yet been finalised, it would not be appropriate for the Commission to discuss the content of any individual Equality Review or to pre-judge the outcome of any review/s.

Observations on Traveller accommodation by international human rights monitoring bodies

Council of Europe

In 2015, the Council of Europe's European Committee of Social Rights found Ireland to be in violation of Article 16 of *the European Social Charter*, (the right of the family to social, legal and economic protection) due to the failure to provide sufficient accommodation for Travellers, the inadequate conditions of existing Traveller sites, and the inadequate safeguards governing Traveller evictions.³⁹ In 2018 the Committee reviewed the situation once more and found that the State had not brought the

³⁹ See [European Roma Rights Centre \(ERRC\) v. Ireland](#), Complaint No. 100/2013.

situation into conformity with Article 16 of the Charter.⁴⁰ In its conclusions for 2019 on the thematic area of children, families, and migrants, the Committee again concluded that the situation in regard to the protection of Traveller families with respect to housing, including in terms of eviction conditions, is not in conformity with Article 16.⁴¹ Another Council of Europe body, the European Commission against Racism and Intolerance (ECRI), has consistently recommended that efforts to meet the accommodation needs of Travellers be increased, including by improving existing halting sites to meet decent and safe living standards, and by providing adequate, accessible, suitable, and culturally appropriate accommodation. ECRI has also recommended the need for a solution to the failure by local authorities to use funding allocated for Traveller accommodation, including by imposing dissuasive sanctions on local authorities for failure to spend allocated funding, or shifting the responsibility for accommodation from local authorities to a central housing agency.⁴²

United Nations

Ireland's record on the provision of Traveller accommodation has been criticised by several UN treaty monitoring bodies, including the Committee on the Rights of the Child,⁴³ the Committee on the Elimination of Discrimination against Women,⁴⁴ and most recently by the Committee on the Elimination of Racial Discrimination, in December 2019.

In October 2019, the Commission, as Ireland's national human rights and equality institution, submitted an independent report to the Committee on the Elimination of Racial Discrimination to inform its assessment of Ireland.⁴⁵ Our report drew the

⁴⁰ European Committee of Social Rights (December 2018), [Follow-Up to Decisions on the Merits of Collective Complaints](#).

⁴¹ See European Committee of Social Rights (March 2020), [Conclusions of the European Committee of Social Rights 2019 concerning Ireland](#).

⁴² See ECRI: [Report on Ireland \(fifth monitoring cycle\)](#), Adopted on 2 April 2019, Published on 4 June 2019, pp.23; [Report on Ireland \(fourth monitoring cycle\)](#), Adopted on 5 December 2012, Published on 19 February 2013, pp.21-22.

⁴³ Committee on the Rights of the Child, [Concluding observations on the combined third and fourth periodic reports of Ireland](#), para 69.

⁴⁴ Committee on the Elimination of Discrimination Against Women, [Concluding observations on the combined sixth and seventh periodic reports of Ireland](#), paras.48-49.

⁴⁵ IHREC (October 2019), [Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#).

Committee's attention to the issues of concern arising in respect of Traveller housing and accommodation outlined above. The Commission recommended that the State:

- prioritise the implementation of the recommendations of the Independent *Expert Review of Traveller Accommodation* and of ECRI; and
- introduce dissuasive sanctions for local authorities who fail to provide Traveller-specific and culturally appropriate accommodation in areas where there is a stated need.

The Commission also highlighted to the Committee that in the absence of sufficient procedural safeguards, the legal framework relating to evictions has a disproportionate impact on Travellers and there is an increase in forced evictions and the suppression of nomadism as a cultural practice.⁴⁶ However, the legal aid scheme does not extend to eviction proceedings, despite the severe impact of an order directing Travellers to vacate a site that they treat as their home.⁴⁷

The Committee in its Concluding Observations on Ireland, published in December 2019, set out its concerns "about the challenges faced by Travellers and Roma in enjoying their economic, social and cultural rights" and called for action in employment, education, healthcare and the provision of appropriate accommodation.⁴⁸

The Committee's specific housing and accommodation related observations were as follows:

Despite the provisions of Section 20 of the Housing (Miscellaneous Provisions) Act 2009 and the Equal Status Act; and while noting the nationwide housing crisis in Ireland, the Committee remains concerned at reports that ethnic minority groups such as Travellers, Roma, people of African descent, and migrant communities, who have limited access to social housing, face serious discrimination and inequality in the competitive private rental sector and are disproportionately at risk of being homeless. It is also concerned that the Housing (Miscellaneous Provisions) Act 2002 is reportedly used by local

⁴⁶ Committee on the Rights of the Child, [Concluding Observations on the Combined Third and Fourth Periodic Reports of Ireland](#), p.12.

⁴⁷ IHREC (October 2019), [Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#), p. 142.

⁴⁸ Committee on the Elimination of Racial Discrimination (December 2019), [Concluding observations on the combined fifth to ninth reports of Ireland](#), p. 7.

authorities to justify forced evictions of Travellers. The Committee is further concerned about the persistent underspending of available budgets by local authorities on culturally appropriate housing for Travellers (art.5).

28. The Committee recommends that the State party:

- (a) Analyse the impact of the current housing crisis on Travellers and Roma and other ethnic minority groups and take effective measures to address it;
- (b) Improve access to social housing by Travellers, Roma, people of African descent and migrants;
- (c) Take effective measures to address any discrimination against Travellers and Roma in the private rental sector;
- (d) Repeal the Housing (Miscellaneous Provisions) Act 2002 and place moratorium on evictions of Traveller accommodations;
- (e) Increase the budget earmarked for Traveller accommodation to the levels before the financial crisis and ensure that all of the allocated budget is fully and effectively spent.⁴⁹

The Committee also expressed concern at the significant adverse impact on Travellers due to the lack of legal aid provided for appeals concerning housing and evictions and called on the State to;

“extend the scope of the Legal Aid Board to the areas of law that are particularly relevant to Traveller and other ethnic minority groups”.⁵⁰

⁴⁹ Committee on the Elimination of Racial Discrimination (December 2019), [Concluding observations on the combined fifth to ninth reports of Ireland](#), p. 6.

⁵⁰ Committee on the Elimination of Racial Discrimination (December 2019), [Concluding observations on the combined fifth to ninth reports of Ireland](#), p. 9.

COVID-19 and Traveller Accommodation

The COVID-19 pandemic has significantly impacted the Traveller community and has sharply demonstrated the important and interdependent role of housing on the rights to health and to life, amongst others.⁵¹ From the outset of the pandemic, public health guidelines have been dependent upon access to secure and adequate housing, including calls for self-isolation, physical distancing, hand-washing and routine hygiene practices.⁵² Long-standing Traveller accommodation issues identified above, including poor accommodation standards, overcrowding, a lack of running water and inadequate sanitation facilities have consequently placed the Traveller community at greater risk of exposure to the virus.⁵³ While the Traveller community accounts for approximately 1% of the general population, it represents approximately 1.8% of all COVID-19 confirmed cases as of 25 November 2020,⁵⁴ although the Commission notes concerns that this may be an underestimate of the true prevalence of COVID-19 infection in the Traveller community.⁵⁵ Research by the Economic and Social Research Institute (ESRI) has also found that the impact of the virus is further compounded by higher comorbidity amongst the Traveller community, including a higher prevalence of underlying health conditions, chronic disease, disability and mental health issues, when compared to the general population.⁵⁶

To mitigate potential impacts of the pandemic, the Minister for Housing issued a circular on 18 March 2020 to advise Local Authorities of increased funding available for Traveller accommodation. As noted earlier in this submission, this included additional mobile accommodation and space where there is overcrowding, as well as additional

⁵¹ OHCHR (June 2020), Press Release: [Disproportionate impact of COVID-19 on racial and ethnic minorities needs to be urgently addressed – Bachelet](#).

⁵² The Irish Examiner (2020), 'Concern Over Lack of Self-isolation facilities for Traveller and Roma Communities', 18 April 2020, available at: <https://www.irishexaminer.com/breakingnews/ireland/concern-over-lack-of-self-isolationfacilities-for-traveller-and-roma-communities-994762.html> ;

⁵³ NESI [The Impacts of Covid-19 on Ethnic Minority and Migrant Groups in Ireland](#), January 2021

⁵⁴ ESRI [Covid-19 and Non-Irish Nationals in Ireland](#), December 2020: p. 27

⁵⁵ Concerns have been raised that COVID-19 infection in the Traveller community is underreported due to ethnicity data not being routinely collected throughout the COVID-19 testing process, for example by GPs at the point of referral for tests, by the National Ambulance Service in its testing, nor by testing centres. In addition, the General Register Office does not record ethnicity on its death register. However, an ethnic identifier has been included on the HPSC's CIDR system since May 2020, on foot of an instruction from the Department of Health after ongoing engagement by Traveller organisations. See COVID-19 NGO Group, [Marginalised Groups: Promoting Equality, Inclusion and Human Rights in the COVID-19 crisis](#).

⁵⁶ NESI (January 2021), [The Impacts of Covid-19 on Ethnic Minority and Migrant Groups in Ireland](#).

units (either mobile units on site, or houses elsewhere that allow for self-isolation or quarantine). The Department of Health has also piloted a national COVID-19 preparedness checklist of Traveller-specific accommodation in the Northwest of Ireland, to be used collaboratively between the HSE, Local Authorities, and Traveller advocacy groups. The checklist became available nationwide in October 2020 and is applicable to accommodation on both authorised and unauthorised sites. As part of the emergency legislative response, the *Emergency Measures in the Public Interest (Covid-19) Act 2020* further prohibits the eviction of Travellers residing in authorised and unauthorised sites, except where such an eviction is to “ameliorate hardship and provide protection” and is subject to consultation with the Travellers concerned”.⁵⁷ While additional COVID-19 related funding aims to mitigate the effects of the pandemic, the Commission notes that it applies only to the emergency period and cannot be expected to address long-standing housing issues affecting the Traveller community. Local Authorities are under no obligation to apply for COVID-19-related funding, and if they do, all requests are subject to final approval from the Department.⁵⁸ Information provided by the Minister indicates that of the €3.9 million funds for COVID-19 response made available by the Department, only €2.5 million had been claimed by Local Authorities as of November 2020.⁵⁹

Concluding Remarks

The persistence of institutional racism and a culture of discrimination against Travellers is one of the most significant areas where the State has failed to meet its human rights obligations.

Since its establishment, the Commission has consistently highlighted specific issues around Traveller accommodation. The legal and policy frameworks governing the provision of accommodation to Travellers require a complete “overhaul”.⁶⁰ This is evidenced by the inadequate conditions of existing Traveller sites, the discrimination and deprivation faced by Travellers in the private rental market, the level of

⁵⁷ Department of Housing, Planning and Local Government (2020), ‘[COVID-19 Queries from TDs](#)’, 17 and 20 April 2020.

⁵⁸ Department of Housing, Planning and Local Government, [Traveller Accommodation Support Unit Circular 06/2020](#).

⁵⁹ [Seanad Éireann debate - Tuesday, 17 Nov 2020](#) .

⁶⁰ Joyce et al. (July 2019), [Traveller Accommodation Expert Review](#), foreword.

overcrowding in Traveller households, the continued problem of Traveller family homelessness, and the ongoing oppression of Travellers through eviction proceedings. Long-standing violations of Travellers' right to access secure and adequate housing have also resulted in the disproportionate impact of COVID-19 on this community, making the need for State action in this area even more pressing.

Overall, the State is not currently meeting the needs of Travellers who would prefer to live in culturally appropriate Traveller-specific accommodation, nor is it meeting the needs of Travellers who would prefer to live in standard housing. As highlighted above, recent progress in the drawdown of the Traveller accommodation budget is welcome, including the use of capital to refurbish and extend existing sites and the provision of mobile units for self-isolation purposes. However, the evidence demonstrates the poor and inconsistent record of local authorities to date in meeting the scale and nature of accommodation needed by the Traveller community. Therefore, local authorities who fail to provide new Traveller-specific and culturally appropriate accommodation⁶¹ in areas where there is a stated need should be subject to dissuasive sanctions as necessary. The Commission is also of the view that legal services providing specialist advice and representation on the particular forms of discrimination experienced by Travellers are necessary to ensure full protection of the right to housing.⁶²

The Commission is concerned that housing authorities continue to make offers of non-Traveller specific accommodation to families whose wish is for Traveller specific accommodation.⁶³ There has been ongoing criticism of the absence of a strong evidence base for the current accommodation policies, and of shortcomings in the system for assessing accommodation needs, due to poor quality data and information on the size, characteristics, and accommodation preferences of the Traveller population.⁶⁴ The Commission therefore strongly supports the recommendation by the Expert Review Group for local authorities to amend the social housing assessment

⁶¹ The Housing (Traveller Accommodation) Act 1998 provides housing authorities with the powers to construct and provide halting sites, including sites that may not be permanent places of residence for those pursuing a nomadic lifestyle.

⁶² IHREC, [Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#) (October 2019), p. 142.

⁶³ This is a significant issue considering Regulation 12(2), Statutory Instrument 198/2011 which provides that where an applicant "...refuses 2 reasonable offers of the allocation of different dwellings" in any one year, they may be suspended from a local authority's housing list. See also, N. Murphy, [Travelling Through Homelessness: A Study of Traveller Homelessness in County Offaly](#), p. 25.

⁶⁴ See Joyce et al. (July 2019), [Traveller Accommodation Expert Review](#), pp. 17-18, 23-25.

process, including through the introduction of an ethnic identifier, and for a new in-depth study on the characteristics and accommodation needs of the Traveller population.⁶⁵

Taking into account the recommendations of the Expert Review Group, UN Committees, the European Committee on Social Rights, ECRI and other expert bodies, there is a clear pathway for the State to address the issues raised, and to fulfil its obligation to provide culturally appropriate accommodation to Travellers.

⁶⁵ See Joyce et al. (July 2019), [Traveller Accommodation Expert Review](#), pp. 17-18, 23-25.



**16 – 22 Sráid na Faiche,
Baile Átha Cliath, D07 CR20**
16 – 22 Green Street,
Dublin, D07 CR20

Idirlíon/Web www.ihrec.ie

🐦 [@_ihrec](https://twitter.com/_ihrec)