

Ireland and the International Covenant on Economic, Social and Cultural Rights

Submission to the UN Committee on
Economic, Social and Cultural Rights for the
List of Issues on Ireland's Fourth Periodic
Report

Irish Human Rights and Equality Commission

December 2021



**Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas**

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Contents

Introduction.....	1
National Infrastructure (Article 2).....	2
Parliamentary Committee on Human Rights, Equality and Diversity	2
Reform of Equality Legislation	2
Expansion of Legal Aid.....	2
Development of Equality Data	3
Pandemic Impact on Social Rights.....	4
Social Inclusion and Poverty (Articles 2, 8, 10, 12, 13-14).....	5
Employment (Articles 6-9).....	7
Housing/Homelessness (Article 11).....	8
Care (Article 2).....	11
Racism and Racial Discrimination (Article 2)	13
Traveller Rights (Articles 2, 11, 15)	16
Disability Rights (Articles 2, 15)	19
Gender Equality (Articles 2, 10, 12).....	23
International Protection (Articles 2, 11, 15)	27

Introduction

The Irish Human Rights and Equality Commission ('the Commission') is both the "A" status National Human Rights Institution ('NHRI') and the National Equality Body for Ireland under EU equality legislation.

This submission provides the Committee with key issues identified by the Commission to inform its preparation of the *List of Issues* for Ireland, due to be adopted by the Committee at its 70th Pre-Session Working Group in March 2022, ahead of its fourth periodic review of Ireland.

Since Ireland's last examination under the International Covenant on Economic, Social and Cultural Rights ('ICESCR') in 2015, the State has retained its reservations to ICESCR Article 2(2) and Article 13(2) (a) and has not ratified the Optional Protocol to ICESCR on the complaints mechanism.

The Committee should ask the State to:

- **Withdraw its continued reservations to Art. 2(2) and 13(2)(a);**
- **Ratify the ICESCR Optional Protocol on the complaints mechanism; and**
- **Fully incorporate ICESCR into domestic law.**

National Infrastructure (Article 2)

Parliamentary Committee on Human Rights, Equality and Diversity

The State has yet to establish a dedicated Parliamentary Committee on human rights, equality and diversity, despite repeated recommendations from the Commission and the Human Rights Council.¹

Reform of Equality Legislation

The Commission notes the State's commitment to review the Equality Acts, announced in summer 2021.² The enactment of the Equality Acts over two decades ago represented a significant milestone in the development of Irish law, and placed Ireland at the forefront of international and European anti-discrimination efforts. Twenty years on, in a changed Ireland, there are evident weaknesses in the coverage and effectiveness of the legislation in addressing inequality and discrimination and there is a need for its comprehensive review and reform.

Expansion of Legal Aid

Despite repeated recommendations across human rights treaty monitoring bodies - most recently the Committee on the Elimination of Racial Discrimination in 2019³ - Ireland's civil legal aid system does not cover representation before quasi-judicial tribunals and bodies dealing with social welfare appeals, housing issues, and employment and discrimination cases.⁴ The Commission notes the State's commitment to review the civil legal aid scheme and bring forward proposals for reform in 2021.⁵

¹ A former Parliamentary Sub-Committee on Human Rights, relative to Justice and Equality matters met three times before the Parliament was dissolved on 3 February 2016 and it was not re-established following the 2016 general election. See for example, IHREC, [Submission to the Third Universal Periodic Review Cycle for Ireland](#) (March 2021) at p. 2 and Human Rights Council, [Report of the Working Group on the Universal Periodic Review: Ireland](#) (2016) UN Doc. A/HRC/33/17 at p. 23.

² Department of Children, Equality, Disability, Integration and Youth, [Minister O'Gorman announces review of the Equality Acts](#), 22 June 2021.

³ Committee on the Elimination of Racial Discrimination, [Concluding observations on the combined fifth to ninth reports of Ireland](#) (2019) UN Doc. CERD/C/IRL/CO/5-9, at paras 43-44.

⁴ See IHREC [Submission to the Anti-Racism Committee: Developing a National Action Plan Against Racism](#), August 2021: p. 62

⁵ Department of Justice, [Justice Plan 2021](#), Action 89: p. 23.

Development of Equality Data

The Commission has repeatedly highlighted the considerable shortfalls in equality data in Ireland.⁶ Key national and regional frameworks offer clear direction to the State and public bodies on collecting and processing equality data, including the National Statistics Board's *Strategic Priorities for Official Statistics 2021-2026*⁷ and the recently-published *EU Guidance Note on the Collection and Use of Equality Data based on Racial or Ethnic Origin*.⁸

The Committee should ask the State to address:

- **The Commission's calls for the establishment of a Parliamentary Committee on human rights, equality and diversity, and its response;**
- **The outcome of the review of the Equality Acts and its plans to reform equality legislation;**
- **The outcome of the review of civil legal aid, and its plans to extend legal aid to quasi-judicial tribunals and bodies, and especially to cases taken under equality legislation; and**
- **Plans for developing the collection and use of disaggregated equality data, including to monitor ICESCR rights.**

⁶ See for example, IHREC [Submission to the Anti-Racism Committee: Developing a National Action Plan Against Racism](#) (August 2021) at pp. 13-18.

⁷ Page 27 of the National Statistics Board's (NSB) *Strategic Priorities for Official Statistics 2021-26* references: the Public Sector Equality and Human Rights Duty (responsibility of public bodies); EU Equality Data Guidelines including a comment that the CSO is 'well-placed to host' an Equality Data Hub; disaggregated data and data linkages as measurement and monitoring resources across a range of policy areas; incorporation of the Census 2022 disability definition in all survey data collection and analyses be made readily available as UN CRPD implementation activities, and; a study on best-practice regarding asking about sexual orientation and gender identity in surveys and censuses.

⁸ EU Equality Data Subgroup, [Guidance Note on the Collection and Use of Equality Data based on Racial or Ethnic Origin](#), 2021. See also: [Guidelines on Improving the Collection and Use of Equality Data](#), 2018.

Pandemic Impact on Social Rights

The Covid-19 pandemic has had a significant impact on ICESCR rights and has exacerbated many existing inequalities relating to the rights to decent work,⁹ housing, health and education, amongst others.¹⁰ The Commission has repeatedly stressed the need for the State to have regard to the human rights and equality impacts of its emergency decision-making, noting the disproportionate effects of the pandemic across various equality groups.¹¹

In May 2021, Ireland submitted its draft National Recovery and Resilience Plan ('NRRP') to the European Commission to secure a significant investment of approximately €989 million to mitigate the public health, economic and social crisis caused by the Covid-19 pandemic.¹² In its guidance to Member States, the European Commission stressed the importance of incorporating gender equality and equal opportunities for all as objectives in the plan.¹³ However, the Irish NRRP does not specifically reference or address human rights and equality concerns.

The Committee should ask the State to address:

- **The measures taken to mitigate the impacts of the pandemic on ICESCR rights across equality groups, particularly in the areas of employment, housing, health and education.**

⁹ Government of Ireland (2020) [The initial impacts of the COVID-19 Pandemic on Ireland's Labour Market: Working Paper](#).

¹⁰ Dermody, M., Smyth, E. and Russell, H. (2020) [The implications of the COVID-19 Pandemic for Policy in Relation to Children and Young People: A research review](#). ESRI: Dublin; NESI (2021) [Secretariat COVID-19 Working Paper Series: Gender and COVID-19 in Ireland](#), paper no. 21; NESI (2021) [Secretariat COVID-19 Working Paper Series: The Impacts of COVID-19 on Ethnic Minority and Migrant Groups in Ireland](#), paper no. 18; TILDA (2021) [Altered lives in a time of crisis: The impact of the COVID-19 pandemic on the lives of older adults in Ireland: Findings from the Irish Longitudinal Study on Ageing](#); and Inclusion Ireland (2020) [The experiences of adults with intellectual disabilities in Ireland during the COVID-19 crisis](#).

¹¹ See IHREC Press Release [Statement from the Irish Human Rights and Equality Commission on COVID-19 Oversight in Respect of Human Rights and Equality](#), April 2020

¹² The draft NRRP focuses on three priority areas: advancing the green transition, digital reform and transformation, and social and economic recovery and job creation. The Recovery and Resilience Facility forms part of the EU's wider response to the public health, economic and social crisis caused by the COVID-19 pandemic: the NextGenerationEU. See European Commission Press Release: [NextGenerationEU: European Commission endorses Ireland's recovery and resilience plan](#), 16 July 2021.

¹³ European Commission, [Guidance to Member States: Recovery and Resilience Plans](#), January 2021: p. 4.

Social Inclusion and Poverty (Articles 2, 8, 10, 12, 13-14)

The Commission notes the State's aim to reduce the national consistent poverty rate to 2% or less of the population by 2025 (from a 2018 rate of 5.6%).¹⁴ The consistent poverty rate represents people who are both at risk of poverty and experiencing enforced deprivation. The consistent poverty rate was 5% in 2020, the 'at risk of poverty' rate was 13.2% and 15.6% of the population experienced enforced deprivation. By household composition, individuals living in households where there was one adult and one or more children aged under 18 had the highest consistent poverty rate at almost 22%.¹⁵

The most commonly reported barrier to social inclusion is belonging to a jobless household.¹⁶ For example, those most at risk of experiencing poverty in 2020 were those unable to work due to disability or illness (33.7%), and the unemployed (32%).¹⁷ Moreover, minority ethnic groups are over-represented among those living in consistent poverty, and have been found to experience cumulative disadvantage and discrimination in accessing education, employment, housing, and other areas such as social assistance.¹⁸

The State has committed in the *Roadmap to Social Inclusion 2020-2025*¹⁹ to review and improve programmes already in place to address barriers facing marginalised groups.²⁰ The Commission emphasises the importance of addressing poverty and social exclusion in Ireland's continued response to and recovery from the Covid-19 pandemic.²¹

The Committee should ask the State to address:

¹⁴ See: [Roadmap for Social Inclusion 2020-2025](#).

¹⁵ The most up-to-date data available on poverty in Ireland is the [Survey on Income and Living Conditions \(SILC\) 2020](#), conducted by the CSO.

¹⁶ See ESRI [Profiling barriers to social inclusion in Ireland](#) (2018): p. i

¹⁷ See CSO, [Survey on Income and Living Conditions \(SILC\) 2020](#).

¹⁸ IHREC [Submission to United Nations Committee on the Elimination of Racial Discrimination](#), October 2019: p. 18

¹⁹ See Gov.ie [Roadmap for Social Inclusion 2020 - 2025](#), January 2020

²⁰ See Gov.ie [Roadmap for Social Inclusion 2020 - 2025](#), (January 2020): p. 27

²¹ See IHREC Guidance Note on COVID-19 and the Public Sector Equality and Human Rights Duty (2020): p. 4

- **Measures it is taking to ensure the achievement of the *Roadmap to Social Inclusion 2020-2025* target rate of 2% or less for consistent poverty;**
- **The effectiveness of measures taken to reduce child poverty; and**
- **How it has reviewed and improved programmes already in place to address barriers facing marginalised groups.**

Employment (Articles 6-9)

Commission-supported research has found evidence that women,²² lone parents,²³ young people,²⁴ migrants,²⁵ ethnic minorities,²⁶ including Travellers,²⁷ and disabled persons²⁸ experience significant barriers in meeting their right to decent work.²⁹ This analysis, drawing on international human rights standards, monitored decent work across six dimensions: access to work; adequate earnings; employee voice; security and stability of work; equality of opportunity for and treatment in employment; and health and safety.³⁰

The Committee should ask the State to address:

- **The measures it is taking to improve access to, and treatment in, employment for women and marginalised minority groups. And, in particular, what the State is doing to improve working conditions for pregnant women and parents.**

²² Women also had lower rates of employment in 2019 (68 per cent) than men (79 per cent). See IHREC/ESRI [Monitoring Decent Work in Ireland](#) (2021): p. x

²³ See IHREC/ESRI [Monitoring Decent Work in Ireland, June 2021](#): pp. 53-54

²⁴ Twenty per cent of ethnic minority workers reported discrimination in the workplace, almost three times the average rate of discrimination (7 per cent). Regarding security and stability of work, one-third (33 per cent) of younger workers (18-24) had a temporary contract, compared to 6 per cent of 25-64 year olds in 2019. See IHREC/ESRI [Monitoring Decent Work in Ireland, June 2021](#): pp. x-xi

²⁵ Non-EU migrants report lower employment and high unemployment when compared to Irish-born, and EU-East migrants report lower occupational attainment than Irish-born. See IHREC/ESRI [Monitoring Decent Work in Ireland, June 2021](#): p. 64

²⁶ The Commission has highlighted the structural barriers to labour market access for ethnic minority groups include, among others, issues with recognising experience, English language acquisition, and lack of familiarity with Ireland's job culture and employment system. See [IHREC Submission to Anti-Racism Committee](#) (2021): p. 44

²⁷ The unemployment rate among members of the Irish Traveller community stood at 80% in Census 2016. Traveller unemployment is only measured in the Census, See IHREC/ESRI [Monitoring Decent Work in Ireland](#) (2021): p. 54

²⁸ See ESRI, [Identification of skills gaps among persons with disabilities and their employment prospects](#) (2021): p. xv

²⁹ See IHREC/ ESRI [Monitoring Decent Work in Ireland](#), June 2021

³⁰ The dimensions were selected following a review of international measurement frameworks and ICESCR standards and a dedicated consultation with stakeholders in Ireland. See IHREC/ ESRI [Monitoring Decent Work in Ireland](#), 2021, p.19

Housing/Homelessness (Article 11)

Ireland is currently experiencing an acute housing crisis, characterised by escalating rents,³¹ insecurity of tenure, and a severe shortage of affordable housing.³² Drawing on international human rights standards, recent Commission-supported research set out to monitor housing adequacy across six dimensions: accessibility, affordability, security of tenure, cultural adequacy, quality, and location.³³ The findings demonstrate persistent housing discrimination and disadvantage among particular groups in Ireland, including lone parents and their children,³⁴ minority ethnic groups including Travellers,³⁵ migrants,³⁶ and disabled people³⁷ - all of whom experience multiple barriers in meeting their right to adequate housing. This housing deprivation was reported across housing tenures, including homeownership, private rental, and Local Authority housing.³⁸ The analysis additionally highlights that Irish Travellers continue to experience high rates of housing discrimination and racism in accessing housing, echoing previous research published by the Commission.³⁹ Further, the Commission has called for the introduction of an 'ethnic identifier' in the social housing needs

³¹ Data published from Q3 2021 highlight that market rents are 6.7% higher than twelve months previously, with significant increases seen outside of Dublin (though Dublin is still 80% more expensive than non-city rents). See: Daft (2021) [The Daft.ie Rental Price Report: An analysis of rent trends in the Irish rental market 2021 Q3](#).

³² Lima, VI. (2021) [Trends in Social Housing Supports: Housing Assistance Payment \(HAP\)](#).

³³ See IHREC/ ESRI [Monitoring Adequate Housing in Ireland](#), June 2021

³⁴ The report found that less than 25 per cent of lone parents reported home-ownership, compared with 70 per cent of total population. Lone parents had higher rates of affordability issues (19 per cent) when compared to the general population (5 per cent) and were particularly vulnerable to housing quality problems such as damp and lack of central heating (32 per cent compared to 22 per cent of total population).

³⁵ Ethnic minority groups had a significantly higher risk of over-crowding. Over 35 per cent of Asian/Asian Irish, 39 per cent of Travellers and over 40 per cent of Black/Black Irish live in over-crowded accommodation, compared to 6 per cent of the total population.

³⁶ Forty-eight per cent of migrants live in the private rental sector compared to 9 per cent of those born in Ireland. Migrants, specifically those from Eastern Europe (28 per cent) and non-EU countries (27 per cent), are more likely to live in over-crowded conditions.

³⁷ Disability and housing quality: 29 per cent of persons living with a disability experience housing quality issues, when compared to those without a disability (21 per cent). Disabled people are also more likely to report an inability to keep their home warm and arrears on rent or mortgage payments.

³⁸ Homeowners are less likely to experience housing quality problems (17 per cent) when compared to those who rent privately (30 per cent) and those who live in Local Authority housing (35 per cent). IHREC / ESRI, [Monitoring Right to Adequate Housing in Ireland \(2021\)](#), p. 133.

³⁹ IHREC/ESRI also found that Travellers were nine times more likely to experience housing discrimination than the general population. See IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (2018) p. 36.

assessment data, so that the housing needs of Traveller applicants can be appropriately identified and progressed.⁴⁰

Disabled people also report high levels of discrimination in access to housing and are significantly over-represented among the homeless population, with more than one-in-four homeless people having a disability.⁴¹ Almost 3,000 disabled people live in congregated settings, where many experience institutional living conditions.⁴² More than 1,300 disabled people under the age of 65 are inappropriately housed in nursing homes for older people because they cannot access supports to enable them to live in the community.⁴³ Over 1,250 disabled people live at home with a primary carer over the age of 70.⁴⁴ There is a need for multiple housing solutions and robust independent living supports to meet the housing needs of disabled people.⁴⁵

These findings complemented previous Commission-funded research, which found that 38% of those living in local authority housing experience housing deprivation⁴⁶ and 28% of local authority houses are overcrowded.⁴⁷

In 2017, the European Committee of Social Rights found Ireland in violation of Article 16 of the European Social Charter (Revised) due to its failure to take sufficient and timely measures to ensure the right to housing of an adequate standard for families living in local authority housing. In 2020, it concluded that the State was still not in conformity

⁴⁰ See IHREC, [Submission to the Joint Committee on Key Issues Affecting the Traveller Community](#), p.9.

⁴¹ Raffaele Grotti, Helen Russell, Éamonn Fahey, Bertrand Maitre, [Discrimination and Inequality in Housing in Ireland](#), 2018.

⁴² HIQA, [Annual Report 2020](#).

⁴³ Office of the Ombudsman, [Wasted Lives-Time for a better future for younger people in nursing homes](#), 2021.

⁴⁴ Claire Casey, Michael O'Sullivan, Natalie Flanagan, Sarah Fanagan, [Annual Report of the National Ability Supports System \(NASS\) 2020](#).

⁴⁵ Independent Living Movement Ireland & Inclusion Ireland, [Our Housing Rights: Tackling the Housing Crisis Disabled People Face](#), 13 September 2021; [The Disability Participation and Consultation Network's Response to the State's Draft Report on the United Nations Convention on the Rights of Persons with Disabilities](#), April 2021.

⁴⁶ Characterised by, for example, leaking roof, damp walls, floor or foundation, rot in windows frames or floor; dark rooms; no central heating; and no double-glazing windows. IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (June 2018) at pp. 42-43.

⁴⁷ IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (2018) at pp. 52, 54.

with Article 16, as it has not been established that there is a sufficient supply of adequate housing for vulnerable families.⁴⁸

As of September 2021, there were 8,475 homeless people in Ireland⁴⁹ and there are concerns that homelessness will increase as the country moves out of the pandemic and tenancy supports and protections are lifted.⁵⁰

Progress in responding to the housing crisis remains slow.⁵¹ In the recently published *Housing for All 2021-2030*^{plan},⁵² the State has acknowledged the existing failures of Ireland's housing system and proposes investment and actions to address insufficient housing supply. However, more needs to be done than addressing supply alone to combat discrimination and housing disadvantage among particular subgroups. The Commission welcomes the planned Commission on Housing, which will work to bring forward proposals on a referendum on a constitutional right to housing.

The Committee should ask the State to address:

- **How legislation and policy has progressed the right to housing; and**
- **The effectiveness of measures to address housing disadvantage and levels of homelessness among marginalised groups.**

⁴⁸ See [International Federation for Human Rights \(FIDH\) v. Ireland](#), Complaint No. 110/2014 and European Committee of Social Rights, [Findings 2020: Ireland](#) (March 2021) at p. 168.

⁴⁹ Department of Housing, Planning & Local Government (2021) [Homelessness Report September 2021](#).

⁵⁰ For further information on housing and homelessness during COVID-19 crisis, see: Byrne, M. [The impact of COVID-19 on the private rental sector: Emerging international evidence](#) 2021; National Economic and Social Council [The Implications of Covid-19 for Housing in Ireland](#) 2020 and O'Carroll, A., Duffin, T. and Collins, J. (2020) [Saving Lives in the time of COVID-19 Case Study of Harm Reduction, Homelessness and Drug Use in Dublin, Ireland](#)

⁵¹ IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020) at p. 20.

⁵² Department of Housing, Local Government and Heritage: [Housing for All – A New Housing Plan for Ireland](#), 2021.

Care (Article 2)

Ireland ranks among the world's most expensive countries for childcare.⁵³ The Commission has repeatedly raised concerns over systemic shortcomings in childcare infrastructure.⁵⁴ The Commission welcomes the recent Citizens' Assembly recommendations that the Government transition to a publicly funded model of childcare, and – as the Citizens' Assembly also recommended – to increase the share of GDP spent on childcare from the current 0.37% to at least 1% by no later than 2030.⁵⁵

Ireland has the third highest weekly hours of unpaid work for men and women across the European Union.⁵⁶ Women are significantly over-represented amongst employees who avail of reduced hours in order to facilitate the combination of care and paid work, contributing to gender inequality in the labour market.⁵⁷ The provision of support for combining paid and unpaid work remains well behind that seen in Scandinavia and other European states, and is not commensurate with the 'dramatic rise in women's paid employment in Ireland'.⁵⁸ Moreover, there has been a dramatic increase in women's caregiving responsibilities for children, older people and other members of their family and social network throughout the Covid-19 pandemic.⁵⁹ In its submission to the Citizens' Assembly on Gender Equality, the Commission proposed an overhaul of the State's policy framework for care, to ensure that care work in Ireland is adequately

⁵³ Unicef [Where do Rich Countries Stand on Childcare?](#) 2020

⁵⁴ See, for example: IHREC (2017), Ireland and the Convention on the Elimination of all forms of Discrimination against Women ; IHREC/ESRI (2019), Caring and Unpaid Work in Ireland; IHREC (2020), Submission to Citizens' Assembly on Gender Equality

⁵⁵ This is in line the UNICEF recommended investment of a minimum expenditure of 1% GDP on early childhood development and care. See [Report of the Citizens' Assembly on Gender Equality](#), June 2021: p. 13; UNICEF, [The child care transition: Innocenti Report Card](#), 2008: p. 8

⁵⁶ Drawing on data from the European Quality of Life Survey (EQLS), the research demonstrates the significant extra burden placed on women when it comes to unpaid care work in Ireland. When compared across the EU 28, the data reveals that Ireland has the third highest rate of unpaid work for both women and men, and that the gap between genders, at 15 hours per week, is amongst the greatest amongst member States. Additionally, over half of those carrying out unpaid care work in Ireland are juggling these responsibilities with employment. See Russell, H., Grotti, R. McGinnity, F. and Privalko, I. [Caring and Unpaid Work in Ireland](#), 2019.

⁵⁷ IHREC [Submission to Citizens' Assembly on Gender Equality](#), March 2020: p. 32

⁵⁸ IHREC [Submission to Citizens' Assembly on Gender Equality](#), March 2020: p. 33.

⁵⁹ See Oireachtas Library & Research Service Note (20 April 2020) [Anticipating the gendered impacts of COVID-19](#). The publication provides a comprehensive overview of gendered implications of the Covid-19 pandemic. It ties research and publications at the international level (i.e. UN Women) into the Irish context, as well.

supported, publically valued, and equally shared.⁶⁰ The Commission further supports recent Citizens' Assembly recommendations that paid parental leave be extended to cover the first year of the child's life, be non-transferable between parents to encourage sharing of childcare responsibilities, provide lone parents with the same total leave period as a couple, and be incentivised to encourage take up.⁶¹

The Committee should ask the State to address:

- **The measures it is taking to implement the recent Citizens' Assembly recommendation that the Government transition to a publicly funded model of childcare;**
- **The measures it is taking to implement the recent Citizens' Assembly recommendation to increase the share of GDP spent on childcare from 0.37% to 1% by 2030;**
- **The measures taken to reduce the high costs of childcare, particularly for parents of limited financial resources and lone parents; and their outcomes;**
- **The measures it is taking to bring the national policy framework on care in line with ICESCR obligations, including the outcomes of these measures; and**
- **The measures taken to advance family-friendly workplace practices, in particular by legislating for paid parental leave to cover the first year of a child's life, as recommended by the Citizens' Assembly.**

⁶⁰ In line with the Assembly, the Commission also recommends that the State modernise the legislative and policy framework for the promotion of family-friendly measures in the workplace, including the development of paternity leave, non-transferable parental leave, carers' leave, and the right to request flexible working arrangements. See IHREC [Submission to Citizens' Assembly on Gender Equality](#), March 2020: p. 33

⁶¹ See [Report of the Citizens' Assembly on Gender Equality](#), June 2021: p. 13

Racism and Racial Discrimination (Article 2)

Commission-funded research has shown that racist attitudes can be found across Irish society and across all social classes,⁶² and that Travellers and Black people experience particularly high rates of labour market discrimination, both when seeking work and in the workplace.⁶³ The Commission also highlights that racism is experienced in different ways and to different degrees, often intersecting on multiple grounds of discrimination, including religion, age, disability, gender, sexual orientation and socioeconomic status.⁶⁴ Minority ethnic women in Ireland face cumulative discrimination, including in relation to pay and promotion.⁶⁵ Ethnic minority young people additionally report that racism leads to feeling a 'constant alertness' that makes some anxious, depressed or insecure about their own identity, while others report internalised self-loathing or being ashamed of their identity.⁶⁶ Such experiences of isolation have been raised directly with the Commission in its engagement with young people of African descent, where concerns were also expressed about the lack of wider awareness and understanding among the general public about racism and racist activities in Ireland.⁶⁷

⁶² In McGinnity et al's study *Attitudes to Diversity in Ireland* (2018), it was found that just under half of adults born in Ireland believe some cultures to be superior to others; that 45% believe that some races/ethnic groups were born harder working; and that 17% of adults born in Ireland believe that 'some races were born less intelligent'

⁶³ Compared to 'White Irish' respondents, Travellers are almost ten times as likely, Black people of Irish nationality are twice as likely; and Black people of other nationalities are five times as likely to experience discrimination in seeking work. Black people of Irish nationality are 3.4 times as likely to experience discrimination in the workplace; and Black people of other nationalities are over 2.5 times more likely to experience discrimination in the workplace. See McGinnity et al., *Who Experiences Discrimination in Ireland?*, pp. 35-36 and IHREC, *Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report* (October 2019), p. 71. The CSO also published data in July 2019 demonstrating that 14.4% of 'non-Irish persons' and 19.8% of 'persons from non-White ethnic backgrounds' reported experiencing workplace discrimination in Ireland. See CSO, *Equality and Discrimination: Quarter 1 2019* (04 July 2019).

⁶⁴ IHREC, *Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report*, October 2019: p.38

⁶⁵ IHREC, *Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report* (October 2019), p. 72.

⁶⁶ See Machowska-Kosiack, M and Barry. M. A report on issues facing second-generation ethnic minority young people in Ireland (forthcoming)

⁶⁷ In March 2021, the Commission organised two consultations with African Irish community leaders and second-generation ethnic minority young people across the Greater Dublin Area, with a view to sharing experiences of racism and exploring possible ways of tackling and addressing it. One salient theme to emerge during the consultations was the detrimental impact of racism and racial discrimination experienced by young people, ranging from racist incidents, discrimination, micro-aggressions and a lack of accurate representation on ethnic minority young people, and leading to constant alertness, anxiety, depression, and low self-esteem.

Ireland does not have effective hate crime or hate speech legislation. The Government has committed to introducing new laws to combat incitement and hate crime.⁶⁸ Both legislative and non-legislative measures are needed to combat racist-hate related offences in Ireland, including in the digital sphere, and the Commission has also emphasised the importance of regulatory measures such as codes of practice, codes of conduct, counter-speech, education and awareness raising and support for victims.⁶⁹

The Commission continues to be concerned about the State's failure to produce a programme of action to mark the International Decade for People of African Descent (2015-2024).⁷⁰

The forthcoming *National Action Plan Against Racism* ('NAPAR') is an important measure and the Commission has called for the plan to identify targets for combatting racism and racial discrimination in Ireland, together with performance indicators, metrics and evaluation mechanisms that are group-specific.⁷¹ The Commission has also recommended that the NAPAR resources an advisory mechanism to ensure active participation of rights holders in the plan's monitoring and oversight over its lifetime.⁷²

The Commission wishes to highlight to the Committee inequality in access to education, educational segregation and the potential gap in educational outcomes among ethnic minority young people. The *Education (Admissions to Schools) Act 2018* permits 25% of the places in an oversubscribed school to be reserved for children or

Similar experiences were also raised during the Commission's *Be Heard on CERD* consultation in March 2019, in which participants highlighted the profound effect of racism on mental health in Ireland, as well as the prevalence of 'silent bystanders' in society and the pervasive lack of awareness and understanding among the general public about the racism experienced by minority ethnic communities. See IHREC, [Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#), October 2019: p. 3, 35

⁶⁸ Department of Justice, '[Minister McEntee launches findings of public consultation on Hate Speech and Hate Crime and commits to drafting new Legislation](#)', press release, 17 December 2020.

⁶⁹ See IHREC, Submission to the Joint Committee on Media, Tourism, Arts, Culture, Sport and the Gaeltacht on the General Scheme of the Online Safety and Media Regulation Bill (March 2021); and <https://www.ihrec.ie/app/uploads/2019/12/Review-of-the-Prohibition-of-Incitement-to-Hatred-Act1989.pdf> (December 2019).

⁷⁰ UN CERD Committee, Concluding observations on the combined fifth to ninth reports of Ireland, CERD/C/IRL/CO/5-9, at para. 23-24.

⁷¹ IHREC [Submission to the Anti-Racism Committee: Developing a National Action Plan Against Racism](#), August 2021: pps.9-10.

⁷² See IHREC [Submission to the Anti-Racism Committee: Developing a National Action Plan Against Racism](#), August 2021: pp. 69-76

grandchildren of past pupils.⁷³ This can result in the segregation of particular groups, including children of Traveller families and children whose parents are of migrant origin. There are significant data gaps in educational outcomes data, meaning that it is not possible to compare the outcomes of ethnic minority children with the general population. There are also data gaps relating to the ethnicity of staff in education.⁷⁴ The Commission reiterates its call for greater commitment to collect disaggregated equality data across Government departments and public bodies, to include ethnic identifiers.⁷⁵

The Committee should ask the State to address:

- **Actions taken to reform the legislative and policy framework to effectively combat hate speech, including online hate speech, hate crime and aggravated offences;**
- **Its programme of action to mark the International Decade for People of African Descent;**
- **The timeline and targets for the publication, implementation, monitoring and review of the National Action Plan Against Racism;**
- **How the State intends to ensure the active participation of rights holders throughout the formation and implementation of the National Action Plan Against Racism.**

⁷³ See Section 62(10) (b) of the Education Act 1998, as amended by the Education (Admission to Schools) Act 2018. This has been described as a 'discriminatory policy' by the UN Committee on the Rights of the Child. See Committee on the Rights of the Child, [Concluding Observations on the Combined Third and Fourth Periodic Reports of Ireland](#), p. 14.

⁷⁴ For a recent analysis of racial inequality in higher education, see: Kempny, M. and Michael, L. (2021) [Race Equality in the Higher Education Sector](#). Dublin: HEA.

⁷⁵ For example, IHREC [Submission to the Anti-Racism Committee: Developing a National Action Plan Against Racism](#) (2021) at p. 55. See also, EU Equality Data Subgroup (2021) [Guidance Note on the Collection and Use of Equality Data Based on Racial or Ethnic Origin](#).

Traveller Rights (Articles 2, 11, 15)

State recognition of Travellers as an ethnic minority in March 2017 was a welcome and long overdue development,⁷⁶ although it has no direct legal effect.⁷⁷ There is persistent and overt racism against Travellers in Ireland.⁷⁸ Travellers continue to experience systemic discrimination in employment, education, health, and housing, with many living in poverty.⁷⁹ Funding and infrastructure are required to preserve and develop Traveller culture and identity.⁸⁰ The Commission welcomes the State's commitment to develop a successor strategy to the *National Traveller and Roma Inclusion Strategy 2017–2021* with a stronger outcomes-focused approach.⁸¹

⁷⁶ The State's recognition of Traveller ethnicity was set out in a statement made by An Taoiseach Enda Kenny TD in Dáil Éireann. See Dáil Éireann, [Traveller Ethnicity: Statements](#) (1 March 2017).

⁷⁷ *Mongans v. Clare County Council*[2017] IEHC 709, (Unreported, High Court, Eager J., 27 October 2017).

⁷⁸ IHREC, *Submission to the Joint Committee on Key Issues affecting the Traveller Community*, (February 2021); IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#), p.3.

⁷⁹ Recent research by the EU Fundamental Rights Agency (FRA) highlights disadvantage and discrimination experienced by Travellers across these domains. 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, [Travellers in Ireland: Key Results from the Roma and Traveller Survey 2019](#).

⁸⁰ See IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#) (October 2019) at pp. 80-81.

⁸¹ See Gov.ie, [National Traveller and Roma Inclusion Strategy, 2017 - 2021](#), 2016; Concerns have been raised that the current strategy lacks the requisite budgetary allocation, nor does it contain detail around measuring impact and timeframes to monitor implementation. See European Commission against Racism and Intolerance, ECRI Report on Ireland (fifth monitoring cycle) (June 2019), p. 25

The Commission,⁸² national expert bodies,⁸³ and UN and European human rights bodies⁸⁴ have highlighted persistent underspending of budgets by local authorities on culturally appropriate housing for Travellers.

The Commission remains deeply concerned over the inadequacy and shortage of culturally appropriate Traveller accommodation in Ireland.⁸⁵ The persistent State failure to provide Traveller accommodation fundamentally undermines Traveller's culture and identity. The Commission has recommended that the State prioritise the delivery of Traveller-specific accommodation across the upcoming NAPAR, and that progress in this area be viewed as core indicator of the NAPAR's success over its proposed five-year term.⁸⁶

The Committee should ask the State to address:

- **Actions taken to ensure that an ambitious, well-resourced, measurable and time-bound strategy succeeds the *National Traveller and Roma Integration Strategy 2017-2021*;**
- **The effectiveness of measures to combat racism and discrimination, and preserve and develop Traveller culture and identity;**
- **Measures taken to ensure the delivery of adequate Traveller-specific accommodation, including incorporating the delivery of Traveller-specific**

⁸² The Commission invited all local authorities to carry out Equality Reviews on Traveller Specific Accommodation under Section 32 of the *Irish Human Rights and Equality 2014 Act* and has proposed a suite of recommendations specific to each Local Authority's review. The Equality Review Accounts can be found here: [IHREC: Equality Reviews](#). See also: IHREC, [Accounts of First Council-by-Council Equality Review on Traveller Accommodation in History of State Published](#), 14 July 2021, for overview of key findings.

⁸³ D. Joyce, C. Norton, and M. Norris, [Traveller Accommodation Expert Review](#) (2019), pp.47-50.

⁸⁴ See for example, Committee on the Elimination of Racial Discrimination, [Concluding observations on the combined fifth to ninth reports of Ireland \(January 2020\)](#), at para. 28; European Commission against Racism and Intolerance, [ECRI Report on Ireland \(fifth monitoring cycle\)](#) (June 2019), at p. 10; and European Committee of Social Rights, [Findings 2020: Ireland](#) (March 2021), p. 154.

⁸⁵ See IHREC, [Submission to the Joint Committee on Key Issues affecting the Traveller Community](#), February 2021; IHREC, [Submission to the Third Universal Periodic Review Cycle for Ireland](#), March 2021; IHREC, [Developing a National Action Plan Against Racism: Submission to the Anti-Racism Committee](#), August 2021

⁸⁶ In its written submission to the Anti-Racism Committee's public consultation process on the development of the forthcoming *National Action Plan Against Racism*, the Commission made a series of recommendations specific to Traveller accommodation. See IHREC, [Developing a National Action Plan Against Racism: Submission to the Anti-Racism Committee](#), August 2021: pp. 51-53;

accommodation as a core indicator in the upcoming National Action Plan Against Racism 's implementation plan;

- **Measures to ensure that local authorities who fail to provide new Traveller-specific and culturally appropriate accommodation are subject to dissuasive sanctions; and**
- **The impact of recognition of Traveller ethnicity on the realisation of ICESCR rights, and in particular, the right to an adequate standard of living and the right to cultural identity.**

Disability Rights (Articles 2, 15)

Significant reform is required for the State's legislative and policy framework to abandon ableism,⁸⁷ and meet the standards of the United Nations Convention on the Rights of Persons with Disabilities ('UNCRPD'). This includes legislation in respect of disability assessments,⁸⁸ education,⁸⁹ mental health treatment,⁹⁰ deprivation of liberty,⁹¹ and the Commission's prospective Independent Monitoring Mechanism role.⁹² Delays in commencement of legislation on legal capacity⁹³ have resulted in the continued operation of the outmoded provisions of the *Lunacy (Regulation) Act 1871*, governing wardship.

The *Irish Sign Language Act 2017* recognises Irish Sign Language as an official language and the right of people to use it, including in accessing public services.⁹⁴ However while the Act was signed into law in December 2017, it was not commenced until December 2020⁹⁵ and there has not been a structured approach to ensuring public bodies can

⁸⁷ Human Rights Council (2020), [Report of the Special Rapporteur on the rights of persons with disabilities](#), UN Doc: A/HRC/43/41, paragraphs 10-11.

⁸⁸ Sections 7-23 of the Disability Act 2005 have not been commenced except in respect of persons under 5 years of age. These sections of the Act provide for access to assessments of service need.

⁸⁹ Section 3-13 of the Education for Persons with Special Educational Needs Act 2004 have not been commenced. These sections of the Act provide a statutory basis for the assessments of education support needs and the development of individual education plans for disabled students.

⁹⁰ The Government has committed to reforming the Mental Health Act 2001 to improve protection of the rights of mental health service users, in line with the recommendations made by an expert review group in 2015. See [Report of the Expert Group Review of the Mental Health Act, 2001](#).

⁹¹ The Department of Health carried out a public consultation on a general scheme of the Deprivation of Liberty Safeguards Bill in December 2017. Now almost three years later, the draft Bill has not yet been published and there does not appear to be a clear timeframe for its publication. See comments made by the Minister of State at the Department of Health in [Proposed Legislation - Dáil Éireann Debate, Thursday - 26 November 2020: Question 405](#).

⁹² The *Disability (Miscellaneous Provisions) Bill 2016* proposed to provide for IHREC's Independent Monitoring Mechanism role in law. The Bill lapsed upon the dissolution of Parliament in January 2020. The General Scheme of the *Assisted Decision-Making (Capacity) (Amendment) Bill* was subsequently published in November 2021 and, if enacted, will legislate for IHREC's position as the national monitoring body for the UNCRPD.

⁹³ The substantial provisions of the Assisted Decision Making (Capacity) Act 2015, which will provide a modern statutory supported decision making framework, have not been commenced over 5 years since the legislation was enacted.

⁹⁴ Section 3, [Irish Sign Language Act 2017](#).

⁹⁵ Department of Children, Equality, Disability, Integration and Youth, [Minister Rabbitte announces commencement of the Irish Sign Language Act 2017](#).

meet their statutory duties under the Act.⁹⁶ In addition, the State has not yet ratified the Optional Protocol to the UNCRPD.⁹⁷

Significant barriers to the enjoyment of equal rights for disabled persons remain, pointing to structural and institutional ableism across Irish society. Ireland continues to have amongst the lowest employment rates for disabled persons in the EU (32.2% compared to 50.6% in the EU in 2017).⁹⁸ Over 33% of people who are unable to work due to illness or disability are at risk of poverty.⁹⁹ Significant barriers also remain to achieving parity of access to education and healthcare for disabled persons,¹⁰⁰ as well as barriers to the electoral process.¹⁰¹

Progress on the State's programme to deinstitutionalise residential disability services has been slow and the revised target timeframe for implementation by 2021 will not be met.¹⁰² Disabled persons experience significant marginalisation and discrimination in housing,¹⁰³ and poorer health outcomes.¹⁰⁴

⁹⁶ Some public bodies carried out pilot projects to help them plan for meeting their obligations under the Act, but there was no overarching strategy or plan for all such bodies to do this. See Disability Authority, [NDA Independent Assessment of Implementation of the National Disability Inclusion Strategy for 2020](#), March 2021, p.24.

⁹⁷ IHREC has urged that there be no undue delay in this regard, given that Ireland was one of only six EU Member States not to have ratified it as of the end of 2019. See IHREC, [Consultation on Terms of Reference and Work Programme for the Joint Oireachtas Committee on Disability Matters: Submission by the Irish Human Rights and Equality Commission, November 2020](#).

⁹⁸ EU Commission, [Country Report Ireland 2020](#) (26 February 2020).

⁹⁹ CSO, [Survey on Income and Living Conditions \(SILC\) 2020](#).

¹⁰⁰ IHREC, [Consultation on Terms of Reference and Work Programme for the Joint Oireachtas Committee on Disability Matters](#) (November 2020) at p. 8 and IHREC, [Comments on Ireland's 16th National Report on the implementation of the European Social Charter](#) (May 2019) at pp. 29-30, 36-37.

¹⁰¹ IHREC, [Submission to the Committee on Housing, Local Government and Heritage on the General Scheme of the Electoral Reform Bill](#), (February 2021).

¹⁰² As noted by the National Disability Authority in its independent assessments of progress under the strategy. Disabled people living in congregated settings continue to be at greater risk of having a poor quality of life and not being able to exercise their rights, often being separated from their local communities and living in unsuitable, outdated accommodation. See: [Mid-term Review of Progress, The National Disability Inclusion Strategy and Indicators](#), p. 7.

¹⁰³ Disabled persons are more than twice as likely to report discrimination relating to housing; over 1.6 times more likely to live in poor housing conditions, such as living in damp housing, lacking central heating or living in an area with neighbourhood problems; and are significantly over-represented in the homeless population, with more than one in four homeless people being a disabled person. See Raffaele Grotti, Helen Russell, Éamonn Fahey and Bertrand Maître, [Discrimination and Inequality in Housing in Ireland](#) (June 2018).

¹⁰⁴ Recent results from the Irish Health Survey 2019 are indicative of these poorer outcomes: a quarter of disabled persons report that their health status is Bad or very bad, compared to the 4% of persons at State population level who report this status; 43% of disabled persons report some form of depression, well above the State average of 14%; around a quarter of disabled persons report having unmet health

There are issues surrounding involuntary treatment in mental health services.¹⁰⁵ Involuntary admissions to mental health establishments persist.¹⁰⁶ There is continued use of seclusion, physical restraint, electroconvulsive therapy, involuntary administration of medication, and a recorded pattern of failure to comply with the rules governing these practices.¹⁰⁷

The State has committed to developing a UNCRPD implementation plan,¹⁰⁸ and the Commission has called for Government to make an annual statement to Parliament on Ireland's UNCRPD implementation.¹⁰⁹ In addition, the State should actively engage with Disabled Persons Organisations ('DPOs') on matters relating to disabled persons, and should actively support their further development and involvement by providing sustainable core funding, capacity building and training.¹¹⁰

The Committee should ask the State to address:

- **Planned legislative reform to bring Ireland into compliance with the UNCRPD;**
- **How it is giving effect to, and monitoring the impacts of, the recognition of Irish Sign Language;**
- **Measures to address the labour market marginalisation of disabled persons, including targeted positive action measures to increase the employment rate and measures to integrate reasonable accommodation into recruitment, selection and employment processes;**

care needs due to waiting times, compared to a State average of 14%; and over a third of disabled persons aged 55 or over report they have a difficulty with at least one personal care activity. See CSO, [Irish Health Survey 2019 - Persons with Disabilities](#).

¹⁰⁵ IHREC, [Submission to the United Nations Human Rights Committee on the List of Issues for the Fifth Periodic Examination of Ireland](#) (August 2020).

¹⁰⁶ Mental Health Commission, [Annual Report 2018](#) (2019) at p.4.

¹⁰⁷ Mental Health Commission, [Annual Report 2018](#) (2019) at pp. 66, 68; Mental Health Commission, [Mental Health Commission finds one critical and 20 high risk ratings in three mental health centres](#) (2019); Mental Health Commission, [The Administration of Electro-Convulsive Therapy in Approved Centres: Activity Report 2017 & 2018](#) (2020).

¹⁰⁸ As set out in the [Programme for Government: Our Shared Future](#).

¹⁰⁹ IHREC, [Commission Calls on Government to Establish Annual Dáil Statement on Progress on Ireland's Disability Rights Obligations](#), 17 June 2021.

¹¹⁰ CRPD General Comment no. 7 (page 2) provides a detailed definition of what constitutes "representative organisations", or organisations of disabled persons, in order to fully implement the CRPD.

- **Progress in delivering the UNCRPD Implementation Plan and how it will monitor and review its outcomes;**
- **The timeline for the ratification of the UNCRPD Optional Protocol;**
- **How it is implementing UNCRPD Article 4.3 and CRPD General Comment 7 including with regards to closely consulting and actively involving disabled persons and Disabled Persons Organisations in policy decision-making processes; and**
- **How it is supporting the establishment and ongoing work of DPOs.**

Gender Equality (Articles 2, 10, 12)

In June 2021, the Citizens' Assembly on Gender Equality¹¹¹ published its 45 priority recommendations to Government to tackle gender discrimination in Ireland.¹¹² The Commission welcomed the Citizens' Assembly's priority recommendations, including recommendations for constitutional reform. The Commission also welcomes the Citizens' Assembly's recognition of intersectionality and layers of discrimination experienced by Travellers, migrant women and disabled women.

The Commission has highlighted that current constitutional provisions such as Article 41.2 have been found to perpetuate stereotypical attitudes towards the role of women.¹¹³ Yet, as of October 2021, there has been no update available on when the *Amendment of the Constitution (Role of Women) Bill* will be published.¹¹⁴

Gender pay and pension gaps stand at approximately 14%, and 38%, respectively.¹¹⁵ In June 2020, the European Committee of Social Rights found Ireland in violation of Article 20 of the European Social Charter (Revised) due to the absence of indicators of progress in promoting equal pay, and insufficient progress in ensuring a balanced representation of women in private-sector decision-making positions.¹¹⁶ In 2021,

¹¹¹ In March 2020, the Commission made a written submission to the Assembly, with 32 recommendations across the four thematic areas within its mandate (Women in Political and Public Life; Gender and Decent Work; Gender and Care Work; Gender Norms and Stereotypes). See IHREC [Submission to the Citizens' Assembly for Gender Equality](#), March 2020

¹¹² Recommendations cover the areas of constitutional reform, promoting women's greater participation in leadership and politics, care and childcare, domestic, sexual and gender-based violence, pay and the workplace and social protection, and technology and the media. In October 2021, the Minister for Children, Equality, Disability, Integration and Youth acknowledged several top-level recommendations from the Citizens' Assembly, although has yet to provide any specific details or timeframe on which recommendations, if any, will be advanced by Government. See Houses of the Oireachtas [Dáil Éireann debate - Wednesday, 20 Oct 2021](#)

¹¹³ IHREC's [submission](#) to Citizens' Assembly (March 2020)

¹¹⁴ The Heads of the *Amendment of the Constitution (Role of Women) Bill* were approved on 5 July 2018 and pre-legislative scrutiny has taken place. However, this Bill was not included in the priority list for publication and drafting in the autumn 2021 legislative session. See Office of the Government Chief Whip, [Legislation Programme Autumn Session](#) 2021 (2021).

¹¹⁵ The gender pay gap figure is based on data from 2014 and relates to the 'unadjusted gender pay gap' which is defined as the difference between the average gross hourly earnings of men and women expressed as a percentage of the average gross hourly earnings of men. For further details see: https://ec.europa.eu/eurostat/statisticsexplained/index.php/Gender_pay_gap_statistics; For gender pension gap, see IHREC (2017) Citizens' Assembly on the Challenges and Opportunities of an Ageing Population.

¹¹⁶ University Women of Europe (UWE) v. Ireland, Complaint No. 132/2016 (June 2020).

legislation was enacted requiring the reporting by larger companies of gender pay differentials.¹¹⁷

The *Health (Regulation of Termination of Pregnancy) Act 2018* was enacted in December 2018,¹¹⁸ and as of April 2020, 373 general practitioners and 10 hospitals had signed up to provide abortion services in Ireland.¹¹⁹ The 2018 Act made no provision for 'safe access' zones outside health facilities providing abortion services¹²⁰ and the Government has committed to legislate on this issue.¹²¹ A review of the operation of the 2018 Act is due to commence in 2022, which will provide an opportunity to assess the degree to which universality and equality of access to services are achieved.¹²²

Ireland ratified the Istanbul Convention in March 2019.¹²³ The recent enactment of the *Harassment, Harmful Communications and Related Offences Act 2020*, introduced new offences for dealing with the taking and distribution of intimate images without consent, 'upskirting', stalking and online or digital harassment.¹²⁴ While both women and men may be subject to harassment and harmful communications, these attacks

¹¹⁷ See the *Gender Pay Gap Information Act 2021*. Once commenced, the reporting obligations under the Act will apply to private and public sector employers with 250+ employees. The Act widens the scope to employers with 150+ employees on or after the second anniversary of the regulations and to employers with 50+ employees on or after third anniversary of the regulations. There will be no requirement on employers with less than 50 employees to report on the gender pay gap.

¹¹⁸ See IHREC (2018) [Observations by the Irish Human Rights and Equality Commission on the General Scheme of a Bill Entitled Health \(Regulation of Termination of Pregnancy\) Bill 2018](#), Sep 2018.

¹¹⁹ The Irish College of General Practitioners (ICGP) estimated that 3496 GPs are actively practising in Ireland, meaning that one in every ten GPs provides for abortion services. See Collins, C., Homeniuk, R. (2021) How many general practice consultations occur in Ireland annually? Cross-sectional data from a survey of general practices. *BMC Family Practice* 22, Website of the Health Service Executive at <https://www2.hse.ie/conditions/abortion/how-to-get-an-abortion/hospitals-providing-services.html>. Note, the 2018 Act allows medical practitioners to conscientiously object to carrying out a termination of pregnancy. The Commission has stressed that this provision should avoid creating or replicating barriers to access to abortion particularly for vulnerable and marginalised groups of women and girls. See IHREC, [Submission to the United Nations Human Rights Committee on the List of Issues for the Fifth Periodic Examination of Ireland](#) (August 2020) at pp. 42-43.

¹²⁰ For further information see IHREC, [Submission to the United Nations Committee on the Elimination of Discrimination Against Women on the follow-up procedure to Ireland's combined sixth and seventh periodic report](#) (August 2020) at p. 11.

¹²¹ See Office of the Government Chief Whip, [Legislation Programme Autumn Session 2021](#) (2021).

¹²² See Section 7 of [the Health \(Regulation of Termination of Pregnancy\) Act 2018](#): 7. *The Minister shall, not later than 3 years after the commencement of this section, carry out a review of the operation of this Act.*

¹²³ Ireland ratified the Convention with reservations to the provisions on state compensation to domestic violence victims and jurisdiction. See Council of Europe Portal (2019) [Reservations and Declarations for Treaty No.210 - Council of Europe Convention on preventing and combating violence against women and domestic violence](#).

¹²⁴ [Harassment, Harmful Communications and Related Offences Act 2020](#)

often take a gender-based form, such as sexist commentary, sexual harassment and even threats of sexual violence, including threats of rape.¹²⁵ Intersectionality is essential when conceptualising online misogyny, as women can be targeted on overlapping grounds of discrimination, reinforcing marginalisation and further impeding women's safety, freedom of expression, and access to public and political spaces.¹²⁶ Despite these developments, however, there are ongoing issues with Ireland's response to violence against women and girls. There is limited availability, particularly in rural locations, of reliable support services, domestic violence refuge accommodation, accessible procedures, and specialised practitioners.¹²⁷ Scarcity of supports and specialist services is further concerning given the context of the Covid-19 pandemic,¹²⁸ when there has been a documented increase of domestic violence.¹²⁹ Migrant women have also been found to be at greater risk of gender-based violence in Ireland and are disproportionately represented in the figures of women presenting to frontline domestic and sexual violence services.¹³⁰

The Committee should ask the State to address:

- **Progress in implementation of the recommendations of the Citizens' Assembly on Gender Equality;**
- **The effectiveness of gender pay gap reporting and the timeline for the extension of reporting obligations to smaller establishments;**

¹²⁵ The IPU's 2016 survey of women parliamentarians identified social media platforms as 'the number one place in which psychological violence – particularly in the form of sexist and misogynistic remarks, humiliating images, mobbing, intimidation and threats – is perpetrated against women parliamentarians'. Available her

¹²⁶ See IHREC [Developing a National Action Plan Against Racism: Submission to the Anti-Racism Committee](#), August 2021: p. 19: 'Interim recommendation 3: Remove all barriers to accessing support for migrant women experiencing gender-based violence'

¹²⁷ As of 2020, Ireland had less than a third of the number of domestic violence refuge spaces it is required to have under European standards.¹²⁷ Furthermore, nine counties in Ireland had no refuges, presenting additional difficulties for victims living in rural areas. See Dáil Éireann Debate, [Covid-19 \(Measures to Protect Victims of Domestic Violence\): Statements](#), 24 June 2020

¹²⁸ Barry, U. (2021) The care economy, COVID-19 recovery and gender equality - A summary report. UCD Geary Institute for Public Policy. See: https://publicpolicy.ie/downloads/perspectives/2021/The_Care_Economy_Covid-19_Recovery_and_Gender_Equality_A_Summary_Report.pdf

¹²⁹ See Government of Ireland (June 2020) [Report on the Social Implications of Covid-19 in Ireland: Update 5 June](#);

¹³⁰ IHREC, [Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#), October 2019: pp 102-108

- **The effectiveness of measures taken to ensure women and girls can access reproductive health care that is safe, appropriate and respects their right to privacy; and**
- **How the *Third National Strategy on Domestic, Sexual and Gender Based Violence* will ensure that the assistance and services provided to victims of domestic violence are sufficient and not limited by geographical disparity or disability access.**

International Protection (Articles 2, 11, 15)

The long-term impact of the Direct Provision system on the rights of individuals seeking international protection, particularly on the right to family life, private life, and health, has been well documented.¹³¹ The Government has recently committed to replacing Direct Provision with a 'human rights and equality based' model by December 2024 and it is essential that this is progressed in a timely manner.¹³² Measures proposed include: ending the 'for profit' approach to reception of international protection applicants; earlier access to the labour market; provision of own-door community-based accommodation; provision of support payments; improved legal, health, education, childcare, and employment activation supports; and facilitation of access to banking services and driving licenses.

EU law requires that the State conduct vulnerability assessments in order to identify the special reception needs of international protection applicants.¹³³ Irish law stipulates that such assessments must be carried out within 30 days of an applicant lodging an international protection claim.¹³⁴ The capacity of the State's assessment process needs to be scaled up significantly if all applicants are to be assessed in a timely manner. Further, the State needs to ensure the conduct of vulnerability assessments both upon the applicant's arrival and on an ongoing basis; in order to proactively deliver appropriate health, accommodation and other support services, including reasonable accommodation for disabled people and supports sensitive to people's gender and sexual orientation.

Long delays remain in determining international protection claims, and the Government has committed to addressing these.¹³⁵ The Commission has stressed the

¹³¹ IHREC, [Submission on the White paper on Direct Provision](#), (December 2020). See also, IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination](#), (October 2019).

¹³² Department of Children, Equality, Disability, Integration and Youth, [A White Paper to End Direct Provision and to Establish a New International Protection Support Service](#), (February 2021). This white paper was drafted following the publication of recommendations by an Advisory Group: Department of Justice, [Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process](#) (October 2020).

¹³³ Article 22, [DIRECTIVE 2013/33/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 laying down standards for the reception of applicants for international protection \(recast\)](#).

¹³⁴ Section 8, [S.I. No. 230/2018 - European Communities \(Reception Conditions\) Regulations 2018](#).

¹³⁵ Department of Children, Equality, Disability, Integration and Youth, [A White Paper to End Direct Provision and to Establish a New International Protection Support Service](#), (February 2021), section 3.5

importance of adhering to due process, natural and constitutional justice requirements, and fair procedures when addressing the backlog.¹³⁶

The *International Protection Act 2015* has severely restricted eligibility and applicable deadlines for family reunification applications, and has excluded naturalised citizens from its purview.¹³⁷ The Government has committed to introducing measures to regularise the situation of undocumented migrants and their families in Ireland.¹³⁸

The Committee should ask the State to address:

- **Progress in its planned phasing out of Direct Provision by 2024, including measures to address the backlog of international protection applications;**
- **Whether vulnerability assessments are being carried out within 30 days of an applicant lodging an international protection claim, and on an ongoing basis;**
- **Whether associated actions are taking place to ensure sufficient supports are provided, including reasonable accommodations and gender and sexual orientation sensitive supports;**
- **Amendment of the *International Protection Act 2015* to more broadly define 'family member' in line with international human rights law, and lift the exclusion of naturalised refugees from the Act's purview; and**
- **Progress in measures to regularise the situation of undocumented people.**

¹³⁶ IHREC, [White Paper Submission Direct Provision](#) (December 2020)

¹³⁷ The Commission has serious concerns regarding retrogressive measures on family reunification introduced in the International Protection Act 2015 that limit the statutory right to family reunification to members of the nuclear family, and requires family reunification applications to be made within 12 months of the grant of refugee or subsidiary protection status – a timeframe that is impossible for many refugees. The Act also excludes refugees who acquire citizenship by naturalisation from its purview. IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#) (October 2019) at p. 11.

¹³⁸ The Government has announced that a new scheme to regularise long-term undocumented migrants will open in January 2022 and will accept applications for 6 months [Minister McEntee announces new landmark scheme to regularise long-term undocumented migrants](#)



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