

# Comments on Ireland's 20th National Report on the Implementation of the European Social Charter

Irish Human Rights and Equality Commission  
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The Irish Human Rights and Equality Commission was established under statute on 1 November 2014 to protect and promote human rights and equality in Ireland, to promote a culture of respect for human rights, equality and intercultural understanding, to promote understanding and awareness of the importance of human rights and equality, and to work towards the elimination of human rights abuses and discrimination.

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## Abbreviations

CAN	Community Action Network
CoE	Council of Europe
DHLG	Department of Housing, Local Government and Heritage
ECRI	European Commission against Racism and Intolerance
ERRC	European Roma Rights Centre
ESRI	Economic and Social Research Institute
EU	European Union
EUROCOP	European Confederation of Police
EUROMIL	European Organisation of Military Associations
FIDH	International Federation for Human Rights
IBEC	Irish Business and Employers Confederation
ICTU	Irish Congress of Trade Unions
IHREC	Irish Human Rights and Equality Commission
ISEQ20	Irish Stock Exchange Index' companies
ITM	Irish Traveller Movement
SMEs	Small and Medium-sized Enterprises
NWCI	National Women's Council of Ireland
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
RTAWG	Regional Traveller Accommodation Working Group
UN	United Nations
UWE	University Women of Europe

## Introduction

The Irish Human Rights and Equality Commission ('the Commission') is Ireland's 'A' Status National Human Rights Institution and the National Equality Body. We are also the Independent Monitoring Mechanism for Ireland under the United Nations Convention on the Rights of Persons with Disabilities;<sup>1</sup> the independent National Rapporteur on the Trafficking of Human Beings;<sup>2</sup> and will be assigned the role of the Co-ordinating National Preventive Mechanism under the Optional Protocol to the Convention against Torture, pending ratification.<sup>3</sup>

In our Strategy Statement 2022-2024,<sup>4</sup> we have committed to prioritising a number of relevant thematic areas, including seeking greater economic equality in housing; access to justice; promoting the eradication of racism, ableism, ageism and sexism; futureproofing to respond to crises that threaten rights and equality; and encouraging, reporting on and enforcing the compliance of public bodies with the Public Sector Equality and Human Rights Duty.

In December 2022, the Government of Ireland submitted its 20<sup>th</sup> National Report to the European Committee of Social Rights ('the Committee') on the follow-up to five collective complaints under the Revised European Social Charter ('the Charter'):<sup>5</sup>

1. **European Confederation of Police (EUROCOP) v Ireland**, Complaint No. 83/2012 on the current arrangements for industrial relations within An Garda Síochána;
2. **European Roma Rights Centre (ERRC) v Ireland**, Complaint No. 100/2013 on the provision of Traveller accommodation by the State;

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<sup>1</sup> Section 103 of the *Assisted Decision-Making (Capacity) (Amendment) Act 2022* amends section 10(2) of the *Irish Human Rights and Equality Act 2014* to provide that one of our functions is to promote and monitor the implementation in the State of the UNCRPD.

<sup>2</sup> IHREC, [Commission Takes on New Role as Ireland's National Rapporteur on the Trafficking of Human Beings](#) (22 October 2020).

<sup>3</sup> To be provided under the *Inspection of Places of Detention Bill*, when enacted.

<sup>4</sup> Irish Human Rights and Equality Commission, [Strategy Statement 2022-2024](#) (December 2021), p. 3.

<sup>5</sup> Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (19 December 2022).

3. **International Federation for Human Rights (FIDH) v Ireland**, Complaint No. 110/2014 on the compliance of Irish law, policy and practices on social housing with European housing, social protection and anti-discrimination standards;
4. **European Organisation of Military Associations (EUROMIL) v Ireland**, Complaint No. 112/2014 on the trade union rights of defence force representative associations;
5. **University Women of Europe (UWE) v. Ireland**, Collective Complaint 132/2016 on the gender pay gap and representation of women on corporate boards.

Given the significant amount of time that has elapsed in respect of the issues raised in the collective complaints, we remain concerned by the State's limited progress in remedying the violations of rights and its 'good faith' commitment to take the measures required to bring the situations into conformity. Four of the five<sup>6</sup> collective complaints have been repeatedly examined by the Committee in its follow-up procedure,<sup>7</sup> but the operationalisation of these decisions by the State has been lacking. We note the increased imperative to resolve the ongoing areas of non-conformity in light of upcoming reform of the Charter reporting system. It is our understanding that this will be the final cycle of review by the Committee of these longstanding collective complaints against Ireland, and they will be transmitted to the Committee of Ministers for further follow-up.<sup>8</sup>

We have previously provided detailed comments to the Committee on the issues raised in the above collective complaints, including in 2020, 2021 and 2022.<sup>9</sup> Therefore, the purpose

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<sup>6</sup> This is the first simplified report to cover University Women of Europe (UWE) v. Ireland, Collective Complaint 132/2016 on the gender pay gap and representation of women on corporate boards. The other four collective complaints were addressed in Ireland's 17<sup>th</sup> and 18<sup>th</sup> National Reports on the implementation of the European Social Charter.

<sup>7</sup> For example, the Committee's Follow-up to decisions on the merits of collective complaints in respect of Ireland's 17<sup>th</sup> and 18<sup>th</sup> National Reports on the implementation of the European Social Charter. See European Committee of Social Rights [Findings 2020](#) (2021), [Findings 2021](#) (2022).

<sup>8</sup> With respect to reporting on follow-up to collective complaints, certain procedural adjustments have been made. In cases where the Committee of Ministers addressed recommendations to States Parties after the European Committee of Social Rights found that the Charter had not been applied in a satisfactory manner, States Parties will be asked to submit a single report on the follow-up undertaken two years after the recommendation. The assessment of the European Committee of Social Rights on the follow-up reports will then be transmitted to the Committee of Ministers. See Council of Europe, [Reform of the European Social Charter System](#).

<sup>9</sup> See IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020) and IHREC, [Comments on Ireland's 18th National Report on the Implementation of the European Social Charter](#) (June 2021). We also provided commentary on the gender pay gap in IHREC,

of this submission is to provide updated information of relevance to support the examination of Ireland's 20<sup>th</sup> National Report. We have engaged with civil society and trade union experts in the preparation of these comments. Their expertise and on-the-ground insights are of significant value, and are referenced throughout.

We further highlight the Committee's call for the State to consider making a declaration under Article 2 of the Additional Protocol 1995, to afford representative national non-governmental organisations the right to submit complaints under the Charter.<sup>10</sup> Irish non-governmental organisations play a crucial role in the area of social and economic rights through advocacy and policy work, and have provided leadership in gathering the data for the collective complaints to date. Therefore, providing direct access to the collective complaints procedures for these organisations could increase its accessibility and their capacity to engage in the mechanism, and support the implementation of the Charter at a national level.

**We reiterate our call on the State to make a declaration permitting national non-governmental organisations to submit collective complaints under the Charter.**

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[Comments on Ireland's 19th National Report on the implementation of the European Social Charter](#) (July 2022).

<sup>10</sup> European Committee of Social Rights, [Fourth Report on Non-Accepted Provisions of the European Social Charter: Ireland](#) (September 2021), p. 3.

## European Confederation of Police (EUROCOP) v Ireland, Complaint No. 83/2012

We note our 2022 comments on Article 6.4,<sup>11</sup> and that the complete prohibition of An Garda Síochána members' right to strike remains in place.

**We are of the view that the legislative framework has yet to be brought into conformity with Article 6.4 of the Charter.**

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<sup>11</sup> See IHREC, [Comments on Ireland's 19th National Report on the implementation of the European Social Charter](#) (2022), p. 31.



## European Roma Rights Centre (ERRC) v Ireland, Complaint 100/2013

We recall that in its 2015 decision,<sup>12</sup> the Committee found the State in violation of 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. In its review of this collective complaint, the Committee found in 2018,<sup>13</sup> 2020<sup>14</sup> and 2021<sup>15</sup> that the situation has still not been brought into conformity with Article 16 of the Charter. We provided detailed information and commentary to inform these findings in 2018,<sup>16</sup> 2020<sup>17</sup> and 2021.<sup>18</sup> We take note of the State's report on its response to this collective complaint,<sup>19</sup> and welcome the opportunity to provide further updated information of relevance to the Committee. We are of the view that Article 16 of the Charter continues to be violated with respect to Traveller rights in the State.

### Provision of Traveller accommodation

The most recent figures provided by the State on the accommodation arrangements of Travellers demonstrate that the number of households living on local authority halting sites has increased,<sup>20</sup> while the number living on unauthorised sites has trended downward.<sup>21</sup>

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<sup>12</sup> [European Roma Rights Centre \(ERRC\) v Ireland, Complaint No. 100/2013](#).

<sup>13</sup> European Committee of Social Rights, [Follow-up to decisions on the merits of collective complaints: Findings 2018](#) (2018).

<sup>14</sup> European Committee of Social Rights, [Follow-up to decisions on the merits of collective complaints: Findings 2019](#) (2020).

<sup>15</sup> European Committee of Social Rights, [Follow-up to decisions on the merits of collective complaints: Findings 2020](#) (2021).

<sup>16</sup> IHREC, [Comments on Ireland's 15<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2018).

<sup>17</sup> IHREC, [Comments on Ireland's 17<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2020).

<sup>18</sup> IHREC, [Comments on Ireland's 18<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2021).

<sup>19</sup> Government of Ireland (2022) [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#).

<sup>20</sup> The number of families living on local authority halting sites increased from 1,047 in 2020 to 1,054 in 2021: DHLGH, [2021 Annual Estimate of Accommodation of Traveller Families](#).

<sup>21</sup> The number of families living on unauthorised sites increased slightly from 468 in 2020 to 487 in 2021 but this is still down from 529 families in 2019: DHLGH, [2021 Annual Estimate of Accommodation of Traveller Families](#).

However, these changes since the last reporting period are marginal, particularly compared to the annual increases in the use of non –Traveller specific accommodation.<sup>22</sup> We note the commitment to increasing and improving accommodation for Travellers in the State’s Housing For All policy framework, but this is not accompanied by further details or targets.<sup>23</sup>

We welcome the third consecutive year of the Traveller accommodation budget being fully drawn down,<sup>24</sup> following the revision of the funding mechanism, in 2020.<sup>25</sup> However, from our engagement with Traveller representative organisations, we have concerns that the new system for funding allocation has served to mask underspend in some areas.<sup>26</sup> In 2022, the European Commission against Racism and Intolerance called for greater accountability in the use of Traveller accommodation funds.<sup>27</sup> In particular, the data indicates that the provision of new Traveller specific units is not regarded with the necessary priority in the spending of available funds.<sup>28</sup> For example, Dublin City Council commissioned a recent independent review of their Traveller Accommodation Programme, which found underperformance in meeting targets for new units and significant over performance in refurbishments.<sup>29</sup>

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<sup>22</sup> From 2019-2021 the number of Traveller families living on local authority halting sites increased by 102. The number living on unauthorised sites and sharing accommodation decreased by 42 and 105 respectively. During this same time period, the number of families living in local authority ‘standard’ housing increased by 560 and the number housed by voluntary bodies increased by 218: DHLGH, [2021 Annual Estimate of Accommodation of Traveller Families](#).

<sup>23</sup> DHLGH, [Housing for All – a New Housing Plan for Ireland](#) (2021), 2.4.3.

<sup>24</sup> Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022).

<sup>25</sup> In 2020, the Department ceased the practice of allocating specific budgets to individual local authorities and is it instead open to all local authorities to apply for and draw down funds at any time throughout the year.

<sup>26</sup> Irish Traveller Movement, [Comments on the fifth periodic report to the Framework Convention on National Minorities](#) (2023). See also p. 5: ‘Traveller-specific accommodation budgets were spent in full in 2020, 2021 and 2023 however, the new draw down procedures from an “allocation” to a “request” based model looks on paper better, where authorities are utilising budgets, but off very low motivational and drawdown levels and where spending has happened it’s mainly for refurbishments rather than new builds.’

<sup>27</sup> European Commission against Racism and Intolerance, [ECRI Conclusions on the Implementation of the Recommendations in Respect of Ireland](#) (2022).

<sup>28</sup> 18 new units were delivered in 2021, alongside 5 halting site major refurbishment projects, 10 group housing major refurbishment projects, 15 Acquisitions and 16 Covid Mobiles. Cost breakdowns were not made available. See: Dáil Éireann, [Written Answers: Traveller Accommodation](#) (19 January 2022). See also: Irish Traveller Movement, [Comments on Ireland’s 18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021), p. 6. From 2006 to 2018, refurbishments accounted for 54.1% of all spending.

The ever increasing drawdown of funding coupled with the consistent under delivery of accommodation units indicates that the funds which are being spent are being used for repairs and maintenance.

<sup>29</sup> Dublin City Council, [Review of Traveller Accommodation Programme Dublin](#) (2023), pp. 9, 7. New halting site bays were targeted for delivery in 2019 and 0 have been delivered. The target for the refurbishment of bays was 50 and final delivery was 75.

Recent annual increases in funding, and consequently spending, have not resulted in the demand for Traveller accommodation being met.<sup>30</sup> The Dublin City Council review found that in order to meet the existing demand, yearly targets for accommodation delivery must be exceeded for the remainder of their programme.<sup>31</sup> In light of this under delivery, we note the legal obligation placed on local authority programmes by the Traveller Accommodation Act 1998 to take account of the future needs of Traveller households. While we acknowledge that local authorities will have different levels of need, we note the considerable variance in the figures that were drawn down across the country in 2022, with one authority not drawing down any funds.<sup>32</sup> Furthermore, funding has still not returned to the level provided prior to the financial crash fifteen years ago.<sup>33</sup> The Traveller Accommodation Expert Group recommended that funding levels be reviewed and that restoration of funding to pre-2008 levels be considered.<sup>34</sup> While this recommendation has been classed as completed by the State, such restoration has not occurred.<sup>35</sup>

We welcome the introduction of an ethnic identifier in social housing assessments in 2022, following significant delays.<sup>36</sup> Despite this reform, the State's collection of Traveller accommodation data remains inadequate.<sup>37</sup> Local authorities vary in whether they count Traveller 'households' or 'families' and this renders it difficult to get a true assessment of need.<sup>38</sup> There are a significant number of Travellers who are not considered homeless for

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<sup>30</sup> Irish Traveller Movement, [Comments on the fifth periodic report to the Framework Convention on National Minorities](#) (2023): 'Only 10% of Traveller specific units were delivered in the last 5yr Traveller Accommodation Programmes nationally and the current one shows only 44 units were built from 2019-2021 with a need of 2,871 Traveller families (in 2020) recorded across TAPs. 12 local authorities show they won't meet their projected targets during their 5-year programme.'

<sup>31</sup> Dublin City Council, [Review of Traveller Accommodation Programme Dublin](#) (2023), p. 30.

<sup>32</sup> Dáil Éireann, [Written Answers: Traveller Accommodation](#) (21 March 2023).

<sup>33</sup> The 2023 budget for Traveller-specific accommodation is €20m while pre-2008 it was €40m. See: Irish Traveller Movement, [Comments on the fifth periodic report to the Framework Convention on National Minorities](#) (2023), p. 5.

<sup>34</sup> Traveller Accommodation Expert Group, [Traveller Accommodation Expert Review](#) (2019), p. 54.

<sup>35</sup> Government of Ireland, [Traveller Accommodation Expert Review Programme Board Update](#) (2023), p. 16.

<sup>36</sup> The Housing Agency (2022) [Summary of Social Housing Assessments 2021](#).

<sup>37</sup> See: Traveller Accommodation Expert Group, [Traveller Accommodation Expert Review](#) (2019), pp. 17-18, 23-25.

<sup>38</sup> Irish Traveller Movement, [Comments on the fifth periodic report to the Framework Convention on National Minorities](#) (2023), p. 5. Under the Census, Traveller families are considered a ratio of 4.2 persons whereas households are 5.3. See also: Focus Ireland, [Submission to Joint Committee on Key Issues affecting the Traveller Community: Access to Housing and Accommodation](#) (2021), pp. 2-3: 'The monthly homeless reports published by the Department of Housing, Local Government and Heritage do not distinguish households from the Traveller Community. There is also a lack of qualitative research and information on the experiences and the impact inappropriate housing for their needs is having on the Traveller Community.'

the purposes of State data collection,<sup>39</sup> but who live in unsuitable overcrowded accommodation or on unauthorised sites, without basic amenities.<sup>40</sup> The ability of the State to meet its obligations to the Traveller community is compromised if the evidence on which policy is based is not sufficiently comprehensive.

The State repeats the claim that there is a:

“general preference among Travellers for standard housing.”<sup>41</sup>

However, we continue to be of the view, based on ongoing engagement with Traveller representative organisations, that this stated ‘general preference’ does not reflect past analysis, ongoing data gaps,<sup>42</sup> and the longstanding commentary that Travellers feel pressured to apply for such housing, due to a number of factors.<sup>43</sup> In 2022, the European Commission against Racism and Intolerance found that:

“little has been done to address the structural shortcomings in the identification of the housing needs of Travellers.”<sup>44</sup>

Most significantly, Travellers feel that they will not be able to secure Traveller specific accommodation such as shared housing, transient, or permanent halting sites due to its limited availability.<sup>45</sup> The under delivery of Traveller specific accommodation as set out

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<sup>39</sup> For the purposes of the State, you are considered homeless when you engage with emergency accommodation services.

<sup>40</sup> For more see: Cork and Kerry RTAWG, [Traveller Homelessness: A Hidden Crisis](#) (2022).

<sup>41</sup> Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), p. 7.

<sup>42</sup> There are a number of Expert Group Recommendations which were intended to address deficiencies in State data collection on Travellers that continue to be listed as ongoing. See: Government of Ireland, [Traveller Accommodation Expert Review Programme Board Update](#) (2023), p. 9.

<sup>43</sup> A Local Authority recently stated to the Ombudsman for Children’s Office that its ability to meet the accommodation needs of Travellers living on a halting site is contingent on the ‘willingness of the residents to be flexible’. Its Traveller Accommodation Programme also states: ‘The Council will make every effort to deliver Traveller specific accommodation to families who have expressed an interest in this type of accommodation however the expectations of the families need to be realistic and alternative accommodation options need to be explored by families such as Private Rented Sector, Standard Housing etc.’ See Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (2021), pp. 8, 51; See also: Department of Justice and Equality, [National Traveller and Roma Inclusion Strategy](#) (2017), pp. 14. A consultation with young Travellers found they felt considerable pressure to integrate and settle.

<sup>44</sup> European Commission against Racism and Intolerance, [ECRI Conclusions on the Implementation of the Recommendations in Respect of Ireland](#) (2022).

<sup>45</sup> Joint Committee on Key Issues Affecting the Traveller Community, [Final Report of the Joint Committee on Key Issues Affecting the Traveller Community](#) (2021), pp. 74-76, 84.

above creates a scarcity, which can put pressure on Travellers to apply for social housing and, in some cases, to accept offers of unsuitable accommodation.<sup>46</sup>

In the context of the lack of sufficient long-term Traveller specific accommodation, there is a State over-reliance on social housing, and increasingly private rental accommodation, to meet the housing needs of Travellers.<sup>47</sup> Travellers face serious discrimination in the private rental market and lengthy delays in securing housing,<sup>48</sup> which can be compounded if they are recipients of the Housing Assistance Payment.<sup>49</sup> Furthermore, Travellers who secure private rented accommodation are considered to no longer to be in need of Traveller-specific accommodation, and are removed from the waiting list.<sup>50</sup> Social housing units are also rarely suitable for the size of Traveller families, which can result in overcrowded conditions for those who accept an offer.<sup>51</sup> Furthermore, we remain concerned about the specific impact the ‘normal residency requirement’<sup>52</sup> has on nomadic culture, and have supported research highlighting the negative effects it has for Travellers seeking housing.<sup>53</sup> The over-representation of Travellers in homelessness,<sup>54</sup> the number of Travellers living in

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<sup>46</sup> Pressure is placed on Travellers to accept social housing offers by 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.

<sup>47</sup> Department of Housing, Local Government and Heritage, [2021 Annual Estimate of Accommodation of Traveller Families](#) and The Housing Agency, [Summary of Social Housing Assessments 2021](#) (2022): The figures for ‘Private Rented’ are 1,882, with 996 households in need of social housing.

<sup>48</sup> Raffaele Grotti, Helen Russell, Éamonn Fahey & Bertrand Maitre, [Discrimination and Inequality in Housing in Ireland](#) (IHREC and the ESRI, 2018). Travellers are 22 times more likely than White Irish people to experience discrimination in the housing market are. See also: IHREC, [Submission to the Joint Committee on Key Issues affecting the Traveller Community](#) (2021), pp. 5-10. See also, Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (2021), p. 43. Some Traveller families were reported as waiting up to 7 years for housing.

<sup>49</sup> Rory Hearne & Judy Walsh, [Housing Assistance and Discrimination: Scoping Study on the ‘Housing Assistance Ground’ under the Equal Status Acts 2000-2018](#) (2022), pp. 21-23.

<sup>50</sup> Irish Traveller Movement, [Comments on Ireland’s 18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021), p. 7.

<sup>51</sup> Focus Ireland, [Submission to Joint Committee on Key Issues affecting the Traveller Community: Access to Housing and Accommodation](#) (2021), pp. 4-5. 1 in 4 Traveller households have 6 or more persons while only 4% of new units built in Dublin and Cork City Council areas have more than 4 bedrooms.

<sup>52</sup> Regulation 5 of the Social Housing Assessment Regulations 2011 stipulates that a household applying for social housing support shall either apply to the authority for the functional area in which the household normally resides, the authority in which the household has a local connection, or the authority that agrees at its discretion to assess the household’s application. See also: See IHREC, [Comments on Ireland’s 16th National Report on the implementation of the European Social Charter](#) (2019), p. 17.

<sup>53</sup> Mercy Law Resource Centre, [Minority Groups and Housing Services: Barriers to Access](#) (2021).

<sup>54</sup> Irish Traveller Movement, [Comments on the fifth periodic report to the Framework Convention on National Minorities](#) (2023) p. 4; Cork and Kerry RTAWG, [Traveller Homelessness: A Hidden Crisis](#) (2022). Traveller children account for 12% of the homeless children in emergency accommodation while constituting 1% of the

shared accommodation and on unauthorised sites, and the number of Traveller households privately renting at times of high rents and increasing economic pressures further indicates that Traveller's accommodation needs are not being adequately provided for.<sup>55</sup>

In our previous report, we highlighted available evidence on issues with the State's pilot Caravan Loan Scheme.<sup>56</sup> The caravans provided under the Scheme were often unsafe for year round habitation, while loan amounts differed across local authorities and were often too low to purchase quality caravans or make repairs.<sup>57</sup> The Scheme was extended nationally across all local authorities and was fully subscribed in 2022. The Department is currently in the process of reviewing the pilot, but it is unclear the extent to which the above issues are being addressed, or whether a further scheme will be put in place.<sup>58</sup>

Despite the Traveller Accommodation Expert Group's report being published five years ago, only 11 of the 32 recommendations have been classed as completed. The implementation of a number of other recommendations had not been initiated, as recently as January 2023.<sup>59</sup> We have repeatedly criticised the State's performance in implementation, as has the European Commission against Racism and Intolerance.<sup>60</sup> Furthermore, Traveller representative organisations have cast doubt on the State's progress in implementing the report's recommendations while the 'foundational architecture for Traveller accommodation is absent', including an independent authority responsible for Traveller

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population; Joint Committee on Key Issues Affecting the Traveller Community, [Final Report of the Joint Committee on Key Issues Affecting the Traveller Community](#) (2021), pp. 78-80.

<sup>55</sup> Department of Housing, Local Government and Heritage, [2021 Annual Estimate of Accommodation of Traveller Families](#). Contrast the figures for Unauthorised Sites (487), Own Resources (876) Private Rented (1882), Sharing (828) with Local Authority Halting Sites (1,047) and the 996 households in need of social housing, see: The Housing Agency, [Summary of Social Housing Assessments 2021](#) (2022).

<sup>56</sup> IHREC, [Comments on the 18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021), p. 13.

<sup>57</sup> Community Law and Mediation, [The Legal Implications and Lived Experiences of the Caravan Loan Scheme](#) (2020).

<sup>58</sup> Department of Housing, Planning, and Local Government, [Traveller Accommodation](#) (3 May 2023).

<sup>59</sup> Government of Ireland, [Traveller Accommodation Expert Review Programme Board Update](#) (2023). We note that in the State Report this information was presented as 24 out of 32 recommendations completed or underway.

<sup>60</sup> European Commission against Racism and Intolerance, [ECRI Conclusions on the Implementation of the Recommendations in Respect of Ireland](#) (2022).

Accommodation.<sup>61</sup> The establishment of such an authority was recommended by the Expert Group.<sup>62</sup>

The ability of the State to provide accommodation is hampered by the lack of cohesion in the policy framework.<sup>63</sup> There is no single body with authority for oversight and delivery on Traveller accommodation, nor is there alignment between the various housing strategies and development plans. This has consequences for the State's delivery of its commitments. A number of targeted housing and homelessness strategies have been developed for other structurally vulnerable groups.<sup>64</sup> Against the backdrop of a broad housing crisis in Ireland, the provision of accommodation to different groups can be exploited to create division and hate. We are of the view that an important factor in building community relationships and fostering social cohesion is ensuring that the rights of structurally vulnerable groups are collectively progressed with the maximum use of available resources, and that none are left behind as the circumstances of others are improved.

We also regret the significant delay in the development of the successor to the National Traveller and Roma Inclusion Strategy.<sup>65</sup> Despite concluding in 2021, a new strategy has not been developed, and there is no concrete timeframe for its publication available.<sup>66</sup> While we note that the Steering Committee has continued its work in the absence of a strategy, we are concerned by the slow rate of progress. The historical and ongoing underperformance of the State in meeting the needs of Travellers has required members of the community to become tireless advocates for their own basic human rights, despite the impact on their mental health. The State has primary responsibility for respecting,

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<sup>61</sup> Irish Traveller Movement, [Comments on the fifth periodic report to the Framework Convention on National Minorities](#) (2023), p. 3.

<sup>62</sup> Traveller Accommodation Expert Group, [Traveller Accommodation Expert Review](#) (2019).

<sup>63</sup> For more see: Irish Traveller Movement, [Comments on the fifth periodic report to the Framework Convention on National Minorities](#) (2023) pp. 3-4.

<sup>64</sup> [National Housing Strategy for Disabled People 2022-2027](#); [Housing Options for our Ageing Population](#); [Youth Homelessness Strategy 2023-2025](#). For the purpose of this submission, we define a structurally vulnerable person as someone who is particularly vulnerable to violations of their rights due to political, economic, social and cultural structures. Instead of focusing on the personal characteristics of individuals and groups and viewing them as lacking agency or inherently vulnerable, 'structural vulnerability' refers to the structures in place which render certain sectors of the population particularly vulnerable to human rights abuses.

<sup>65</sup> [National Traveller and Roma Inclusion Strategy 2017-2021](#).

<sup>66</sup> Work to begin developing the new strategy is set to begin after the publication of a review commissioned by the Department of the expired strategy that is expected to be released in 2023. See Dáil Éireann, [Written Answers: Departmental Strategies](#) (30 March 2023).

protecting and fulfilling the rights of people within it. The extremely slow progress that has and continues to be made in fully securing Traveller rights following decades of deprivation, discrimination and poverty is indicative of a State architecture which does not regard its obligations with the necessary importance.

**Despite repeated findings by the Committee, we are of the view that the current provision of Traveller accommodation continues to violate the State's obligations under Article 16 of the Charter. The Traveller accommodation architecture remains incoherent and inadequate, in the absence of an independent authority responsible for oversight and delivery, clear policy commitments and targets, and a comprehensive data infrastructure. The outcome in practice is that Travellers continue to experience egregious violations of their right to adequate and culturally appropriate housing.**

## Equality reviews

As previously highlighted to the Committee, we invited each of the 31 local authorities in the State to undertake a review of their provision of Traveller accommodation in 2019.<sup>67</sup> The local authorities were invited to conduct a review of the practices, procedures, and other relevant factors in relation to the drawdown of capital funding and the provision of Traveller specific accommodation. The accounts of these reviews were published in 2021.<sup>68</sup> While the reviews and responses were individual to each authority, some overarching key themes emerged: underspend in the drawdown of allocated funds; evidence of poor information gathering to inform decision-making; and difficulties identifying Travellers' true accommodation preferences. We have invited seven local authorities to conduct Equality Action Plans on foot of the Equality Reviews and engagement is ongoing.

## Conditions of Traveller accommodation

The State has repeatedly provided no information in relation to the conditions of Traveller specific accommodation in reports to the Committee, despite this being a specific ground of violation in the findings on the complaint. In our 2021 comments, we drew the Committee's

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<sup>67</sup> IHREC, [Accounts of First Council-by-Council Equality Review on Traveller Accommodation in History of State Published](#) (July 2021).

<sup>68</sup> All of the Equality Reviews are available at: [IHREC Equality Review Database](#).



attention to reports of chronically poor living conditions in existing halting sites and group housing schemes, including: damp and mould, lack of cooking facilities, inadequate sanitation, rat and fly infestations, insecure electricity and irregular or no rubbish collections.<sup>69</sup> While we welcome some reports of positive developments in terms of local authority action, we remain concerned that improvements to living conditions are not happening at the necessary pace required.<sup>70</sup>

Recently, the European Commission against Racism and Intolerance found that:

“there has been no major improvement in the accommodation conditions of Travellers.”<sup>71</sup>

In our casework, we provided legal assistance to an extended Traveller family who, for sixteen years, had been living in conditions unsuitable for human habitation.<sup>72</sup> Many families continue to live in inadequate, unsafe and impermanent conditions, with thousands of Travellers not having access to electricity, running water or sanitation.<sup>73</sup> We note that the Housing (Standards for Rented Houses) Regulations 2019 do not provide standards for transient, temporary or permanent halting sites.<sup>74</sup>

These issues are often exacerbated by the continued problem of overcrowding which is one of the primary pathways for Travellers into homelessness.<sup>75</sup> According to the National

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<sup>69</sup> IHREC, [Comments on the 18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021), pp. 17-19.

<sup>70</sup> Ombudsman for Children, [Local Authority doing better for children on halting site](#) (December 2022).

<sup>71</sup> European Commission against Racism and Intolerance, [ECRI Conclusions on the Implementation of the Recommendations in Respect of Ireland](#) (2022).

<sup>72</sup> The Commission provided legal assistance to challenge the decision of a local authority not to provide a family with Traveller specific accommodation. They resided on an unauthorised halting site, which was deemed a fire hazard and infested with rodents. An agreement was signed before the case was heard whereby the local authority committed to upgrading their site in the short term and applying for permission to build a permanent site nearby. See: IHREC, [Annual Report 2021](#) (2021), p. 21.

<sup>73</sup> Irish Traveller Movement, [Comments on Ireland's 18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021), p. 3. See also: European Commission against Racism and Intolerance, [ECRI Conclusions on the Implementation of the Recommendations in Respect of Ireland](#) (2022).

<sup>74</sup> Housing (Standards for Rented Houses) Regulations 2019.

<sup>75</sup> Irish Traveller Movement, [Comments on the fifth periodic report to the Framework Convention on National Minorities](#) (2023), p. 4; Focus Ireland, [Submission to Joint Committee on Key Issues affecting the Traveller Community: Access to Housing and Accommodation](#) (2021), p. 6. See also: the ESRI has highlighted that although associated with nomadic culture caravans and mobile homes are far more likely to be overcrowded (84%) – Economic and Social Research Institute, [Oral Submission to the Joint committee on Key Issues affecting the Traveller Community](#) (2021), p. 3.

Traveller Women’s Forum, inadequate conditions have a particular effect on Traveller women as they spend more time in the home and are primary carers.<sup>76</sup> The evidence in relation to the negative impact of unsuitable accommodation on the health outcomes of Traveller families is clear.<sup>77</sup> Furthermore, Travellers have significantly higher rates of disability than the general population.<sup>78</sup>

As children are a protected group under the Charter, it is of particular importance that their rights are secured. Prior investigations into halting sites have uncovered conditions that were unsafe, unhygienic and wholly unsuitable for the development of children.<sup>79</sup> Such circumstances engage the rights provided by the UN Convention on the Rights of the Child, including the rights to non-discrimination, survival and development, health, play and to an adequate standard of living, among others.<sup>80</sup> While progress has been made on the recent Ombudsman for Children’s recommendations, the inclusion of children and young people in consultation and planning processes is an ongoing area of particular concern.<sup>81</sup> In February 2023, the Committee on the Rights of the Child called on Ireland to ensure the enjoyment of Traveller children of all rights under the Convention, including with respect to adequate housing.<sup>82</sup>

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<sup>76</sup> National Traveller Women’s Forum, [Opening Statement on Traveller Accommodation - Meeting of the Joint Committee on Key Issues affecting the Traveller Community](#) (2021).

<sup>77</sup> Parents living on a local authority site have reported that their children’s poor mental health is linked to their living conditions. See Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (2021), p. 16. See also: Pavee Point Traveller and Roma Centre, Young Pavees [Their Mental Health Needs A Research Report](#) (2015); Brian Keogh, Anne-Marie Brady, Carmel Downes, Louise Doyle, Agnes Higgins & Thomas McCann, [An Evaluation of The Role of The Traveller Mental Health Liaison Nurse in Carlow and Kilkenny](#) (2018).

<sup>78</sup> Central Statistics Office, [Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion](#).

<sup>79</sup> Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (2021).

<sup>80</sup> According to the Ombudsman for Children the following rights were of relevance to their investigation; Article 2 – Non-discrimination, Article 6 – Survival and Development, Article 8 – Protection and Preservation of Identity, Article 12 – The Child’s Opinion, Article 16 – Right to Privacy, Article 18 – Parental responsibilities and State Assistance, Article 24 – Health and Health Services, Article 27 – Adequate Standard of Living, Article 30 – Children from Minority or Indigenous Groups, Article 31 – Leisure, Play and Culture. See: Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (2021) pg. 24.

<sup>81</sup> Ombudsman for Children, [No end in site: One Year On](#) (2022).

<sup>82</sup> UN Committee on the Rights of the Child (2023) [Concluding Observations on the combined fifth and sixth periodic reports of Ireland](#), CRC/C/IRL/CO/5-6, para 42.

We have previously detailed the aggravated impact the Covid-19 pandemic had on Travellers as a direct consequence of their inadequate living conditions.<sup>83</sup> This should be a particular area of focus in the proposed State inquiry into the pandemic.<sup>84</sup>

**We are of the view that this situation has not been brought into conformity with the Charter, and the State’s ongoing omission of evidence relating to the conditions of Traveller accommodation demonstrates that the 2015 finding is not being addressed with the necessary priority.<sup>85</sup>**

## Eviction policy, legislation and practice

With reference to our comments, the Committee held in its most recent finding on this complaint in 2021 that the lack of adequate safeguards governing Traveller evictions stemming from legislation and practice was not in conformity with the Charter. The Committee requested that in the next report the State provide information on the adoption and implementation of all the measures envisaged in order to remedy the situation regarding evictions and trespassing.<sup>86</sup>

In the State’s 2022 report, the same commitment to examine the impugned provisions of the Criminal Justice (Public Order) Act 1994 is repeated from its 2020 submission.<sup>87</sup> The Expert Group recommended that the law be repealed and replaced, and we note the most recent update in this regard, which shows State body opposition to the implementation of

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<sup>83</sup> IHREC, [Submission to the Joint Committee on Key Issues affecting the Traveller Community](#) (2021); IHREC [Comments on the 19<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2021), pp. 18-20; See also: Irish Traveller Movement, [Comments on Ireland’s 18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021), p. 5.

<sup>84</sup> Dáil Éireann, [Written Answers: Covid-19 Pandemic](#) (21 March 2023).

<sup>85</sup> Government of Ireland, [15<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2017); [17<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2020); [18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021); and [19<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022).

<sup>86</sup> European Committee of Social Rights, [Follow-up to decisions on the merits of collective complaints: Findings 2020](#) (2021), p. 105.

<sup>87</sup> Government of Ireland, [18<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2020), p. 10: ‘As previously reported, this process will also be looked at in light of the Expert Group recommendations.’ Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), p. 9: ‘As previously reported, this process will also be looked at in light of the Expert Group recommendations.’

this recommendation.<sup>88</sup> We do not accept the State's position that this legislation is not discriminatory against Travellers because it applies equally to all persons.<sup>89</sup> Taking into account the human rights standards in place,<sup>90</sup> the extent to which this statute serves to criminalise a way of life intrinsic to Traveller identity brings it within the scope of indirect discrimination.<sup>91</sup> The Expert Group stated that in light of the State's recognition of Traveller ethnicity, legislation which criminalised nomadism should be repealed. The repeal of this provision was also recommended by the Joint Committee on Key Issues Affecting the Traveller Community.<sup>92</sup> Due to the lack of action taken regarding this legislation, the State's framework continues to fall short of providing adequate procedural safeguards against eviction.

With regard to the finding of non-conformity on Section 10 of the Housing (Miscellaneous Provisions) Act 1992, the implementation of the Expert Group recommendation that the law be revised is 'ongoing'.<sup>93</sup> The only details provided in the most recent update on the implementation of this recommendation highlight different forms of engagement that are taking place, with no tangible actions to bring the situation into conformity provided.<sup>94</sup>

We are concerned that very little is being done to mitigate the unique impact evictions have on Traveller families. Through our legal casework, we have highlighted the failure of a local authority to properly and proportionately assess the rights of a Traveller family before

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<sup>88</sup> Government of Ireland, [Traveller Accommodation Expert Review Programme Board Update](#) (2023), p. 23. An update is provided that the Department of Justice and Equality, and An Garda Síochana are opposed to the repeal of the impugned provision from the law.

<sup>89</sup> Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), pp. 8-9.

<sup>90</sup> European Court of Human Rights, [Guide on Article 14 of the European Convention on Human Rights and on Article 1 of Protocol No. 12 to the Convention: Prohibition of discrimination](#) (2022), p. 12: 'Indirect discrimination may take the form of disproportionately prejudicial effects of a general policy or measure which, though couched in neutral terms, has a particularly discriminatory effect on a particular group...Although the policy or measure at stake may not be specifically aimed or direct at a particular group, it might nevertheless discriminate against that group in an indirect way...Indirect discrimination does not necessarily require a discriminatory intent...Moreover, indirect discrimination may arise from a neutral rule, from a de facto situation or from a policy.'

<sup>91</sup> For more see: IHREC, [Comments on Ireland's National Report on the Implementation of the European Social Charter](#) (2020), pp. 13-15.

<sup>92</sup> Joint Committee on Key Issues Affecting the Traveller Community, [Final Report of the Joint Committee on Key Issues Affecting the Traveller Community](#) (2021), p. 72.

<sup>93</sup> Government of Ireland, [Traveller Accommodation Expert Review Programme Board Update](#) (2023), p. 23.

<sup>94</sup> See: Government of Ireland, [Traveller Accommodation Expert Review Programme Board Update](#) (2023), p. 23, D.4.

invoking planning laws to evict them from a site. The Supreme Court found in this case that the local authority was obliged to consider the impact of eviction on the Traveller family and their prospect of obtaining other accommodation, as well as the authority's own interests, powers and obligations as landowner and housing and planning authority.<sup>95</sup> According to Traveller representative organisations, despite a legal obligation to do so none of the Traveller Accommodation Programmes provide for increasing the provision of transient accommodation,<sup>96</sup> while the current supply of such accommodation is insufficient for the needs of Travellers.<sup>97</sup>

Local authorities continue to have no statutory obligation to consult and negotiate with the communities affected by the above legislation. The State submits that in the absence of such an obligation, local authorities exercise discretion and engage in such activities. However, given that no information has been provided with specific examples or further details, it is not possible to determine the extent to which such engagement is taking place. We also note the Committee's comments that assurance of something being done in practice, for which there is no obligation, is not sufficient.<sup>98</sup> Regarding eviction procedures, we retain our concerns regarding access to legal aid, speed of proceedings, judicial review, requirements to consult and ensure alternative accommodation and the lack of provision of legal aid for eviction proceedings.<sup>99</sup>

**We are of the view that Ireland continues to be in violation of Article 16 of the Charter on the grounds relating to the inadequate safeguards in place for the eviction of Travellers.**

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<sup>95</sup> Clare County Council v Bernard McDonagh and Helen McDonagh and the Irish Human Rights and Equality Commission. For further information, see IHREC, Annual Report 2022 (forthcoming).

<sup>96</sup> Irish Traveller Movement, [Comments on Ireland's 18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021), p. 3.

<sup>97</sup> Irish Traveller Movement, [Comments on Ireland's 18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021), p. 7. There are fewer than 50 Transient sites in the State and almost all are in use for emergency accommodation. No local authority has made provision within their current TAPs.

<sup>98</sup> [European Roma Rights Centre \(ERRC\) v Ireland, Complaint No. 100/2013](#), para 166.

<sup>99</sup> IHREC, [Comments on the 18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021), pp. 21-23.

## International Federation for Human Rights (FIDH) v Ireland, Complaint 110/2014

We recall the Committee's findings in 2017<sup>100</sup> that the State violated Article 16 of the Charter due to its failure to take sufficient and timely measures to ensure the right to housing of an adequate standard, with regard to habitability and access to essential services, for a significant number of families living in local authority housing. We further note the Committee's findings in 2020<sup>101</sup> and 2021<sup>102</sup> that the State is still not in conformity with Article 16. We provided detailed commentary to the Committee on this collective complaint in 2020<sup>103</sup> and 2021,<sup>104</sup> highlighting the ongoing failure of the State to adopt and implement the measures required to fully remedy the situation. Following the State's latest response to this collective complaint in 2022,<sup>105</sup> we welcome the opportunity to provide further information of relevance to the Committee.

### National statistics

The State continues to report that increasing numbers of local authorities have undertaken stock condition surveys. However, as acknowledged by the State, there is still a data gap as a result of the lack of regular standardised surveys and a national database.<sup>106</sup> According to its 2022 report, the completion of full stock condition surveys will provide the required data to inform the works necessary to ensure all dwellings are brought up to an adequate standard.<sup>107</sup>

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<sup>100</sup> [International Federation for Human Rights \(FIDH\) v Ireland, Complaint No. 110/2014.](#)

<sup>101</sup> European Committee of Social Rights, [Follow-up to decisions on the merits of collective complaints: Findings 2019](#) (2020).

<sup>102</sup> European Committee of Social Rights, [Follow-up to decisions on the merits of collective complaints: Findings 2020](#) (2021).

<sup>103</sup> IHREC, [Comments on Ireland's 17 National Report on the Implementation of the European Social Charter](#) (2020).

<sup>104</sup> IHREC, [Comments on Ireland's 18<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2021).

<sup>105</sup> Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022).

<sup>106</sup> Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), p. 13: 'However, the absence of regular and standardised surveys by local authorities of their housing stock and a national asset management database to capture the survey information gives rise to a data gap.'

<sup>107</sup> Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), p. 13.

We are concerned that the State continues to highlight inadequate data collection as a justification for its slow progress in bringing the situation into conformity, particularly as the original finding by the Committee was in 2017 and there have been several reporting cycles since.<sup>108</sup> Under Rebuilding Ireland, there was a commitment to initiate a stock condition survey in every local authority area by Q4 2018.<sup>109</sup> The State subsequently indicated that this work was scheduled to commence in 2021 and was projected to take four to five years.<sup>110</sup> As of 2023, the State update is that a national survey may be done in the next four to six years.<sup>111</sup> These delays are not demonstrative of a commitment to rectify the situation, and result in social housing tenants continuing to live in conditions that violate their human rights. Under this timeline, ten years will have passed since the Committee's original finding before the State will have collected the information necessary to bring the situation into full conformity with the Charter.

In the absence of regular and standardised stock surveys, a national timetable for refurbishment cannot be prepared in response to the finding of the Committee. Furthermore, the lack of comprehensive data impacts the assessment of the measures adopted by the State to determine their effectiveness in practice, and the extent to which it has addressed the specific findings of the Committee on housing conditions and regeneration programmes. For example, the State has provided positive figures on the number of social housing units which have been re-activated but, in the absence of data

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<sup>108</sup> Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), p. 14: 'The completion of full stock condition surveys on the entire local authority owned social housing stock will provide reliable baseline data on the overall stock condition. Thereafter the works necessary to ensure that all dwellings are brought up to a good standard can be identified and prioritised through strategic and informed work programmes with funding programmes targeted accordingly.' For an account of the State's commitment in this respect see: Community Action Network, [Comments on the 18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021), pp. 10-11.

<sup>109</sup> We note that the full suite of documents relating to Rebuilding Ireland policy framework are no longer available online. See Community Action Network, [Comments on the 18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021), p. 10: 'The State has not followed through on its commitment under its own Rebuilding Ireland policy, and in line with the findings of FIDH v Ireland to initiate a condition survey of local authority housing in every area by Q4 2018.'

<sup>110</sup> Dáil Éireann, [Written Answers: Local Authority Housing](#) (5 May 2021).

<sup>111</sup> Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), pp. 13-14.

relating to the total number of units requiring refurbishment, the Committee does not have a complete picture of progress achieved.<sup>112</sup>

**We are of the view that the situation has not been brought into conformity with Article 16 of the Charter due to the ongoing absence of complete statistics on the condition of local authority housing, and lack of a national timetable for the refurbishment of existing housing stock.**

## Housing conditions

In its 2022 report, the State has provided no detailed information as to the current conditions of local authority housing stock.<sup>113</sup> We are concerned by this omission given the repeated findings by the Committee, including in 2021 that:

“there were still substantial limitations in providing adequate accommodation to a large number of families, who continue living in substandard local authority housing conditions.”<sup>114</sup>

Furthermore, in February 2023, the Committee on the Rights of the Child called on the State to significantly strengthen its efforts to provide long-term and adequate social housing, and reminded the State of its obligation to ensure children’s right to adequate living conditions.<sup>115</sup>

We recently supported research which surveyed residents in a number of areas of South Dublin, 85% of whom were social housing tenants, about the human rights issues they faced where they lived.<sup>116</sup> The majority of residents had children and they reported overcrowded conditions and units, which lacked central heating and were suffering from damp and/or

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<sup>112</sup> Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), p. 16.

<sup>113</sup> Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022).

<sup>114</sup> European Committee of Social Rights, [Follow-up to Decisions on the Merits of Collective Complaints: Findings 2021](#) (2022), p. 111.

<sup>115</sup> UN Committee on the Rights of the Child, [Concluding Observations on the combined fifth and sixth periodic reports of Ireland](#), (2023) CRC/C/IRL/CO/5-6, para 35.

<sup>116</sup> North Clondalkin Community Development Project and St. Kevin’s Family Resource Centre, [Living Our Rights: Building capacity to address human rights failures and inequalities in South Dublin County](#) (2022).



mould.<sup>117</sup> Just over half of the respondents believed that their home was in good condition.<sup>118</sup> More than a third of residents felt that their living conditions were negatively affecting their physical health, while one in four felt their mental health was impacted.<sup>119</sup>

Other research conducted on the conditions of a social housing apartment complex found conditions unfit for human habitation.<sup>120</sup> The problems identified included mould and damp, faulty sewage, water ingress, infestations, fire safety concerns and poor insulation.<sup>121</sup> Many residents lacked one or more of the following: central heating, cold running water, hot running water, suitable refuse storage, and a safe play space for children.<sup>122</sup> This survey was conducted in 2021 and recent reporting has indicated little to no improvement.<sup>123</sup> We remain concerned that local authorities are not respecting their statutory obligations on minimum standards of rented dwellings.<sup>124</sup>

Social housing stock which has not been retrofitted has the potential to force tenants into energy poverty and place additional financial burdens on the household. Rising energy costs and homes which inefficiently retain heat can require tenants to choose between not heating their home during the winter months - a decision which can particularly impact on children, disabled people and older people - or spend more of their income on heating and going without other basic needs. A recent poll we conducted found an overwhelming majority of parents with children were planning on reducing heating and energy consumption, while a smaller majority feared not having the funds available to cover household food.<sup>125</sup> These issues are likely to be exacerbated for families living in social

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<sup>117</sup> North Clondalkin Community Development Project and St. Kevin's Family Resource Centre, *Living Our Rights: Building capacity to address human rights failures and inequalities in South Dublin County* (2022), p. 10.

<sup>118</sup> North Clondalkin Community Development Project and St. Kevin's Family Resource Centre, *Living Our Rights: Building capacity to address human rights failures and inequalities in South Dublin County* (2022), p. 10.

<sup>119</sup> North Clondalkin Community Development Project and St. Kevin's Family Resource Centre, *Living Our Rights: Building capacity to address human rights failures and inequalities in South Dublin County* (2022), p. 10.

<sup>120</sup> Robert Emmet CDP, [Environmental Conditions of Oliver Bond Flats Report on Survey](#) (2021).

<sup>121</sup> Robert Emmet CDP, [Environmental Conditions of Oliver Bond Flats Report on Survey](#) (2021), p. 6.

<sup>122</sup> Robert Emmet CDP, [Environmental Conditions of Oliver Bond Flats Report on Survey](#) (2021), p. 7.

<sup>123</sup> Shauna Bowers, [Oliver Bond flats: 'I had to move my room around to keep the baby away from the mould'](#), *Irish Times* (13 February 2023); Amy Blaney, [Rat infestations, sewage problems and mould in council homes, Dáil told, Irish Independent](#) (1 February 2023).

<sup>124</sup> Standards of rented housing units are set out in the [Housing \(Standards for Rented Houses\) Regulations 2019](#).

<sup>125</sup> 88% of parents with children under 16 planned to reduce their heating and energy consumption to reduce household costs and 58% are worried that there will be some periods in the next twelve months when they won't have enough money to cover household food. See: IHREC, [Human Rights Poll](#), (2022).

housing. We note that the State has been carrying out retrofitting projects, however we regret the slow pace of progress and unambitious target setting.<sup>126</sup>

Unlike private renters with access to low cost dispute resolution mechanisms, the majority of social housing tenants do not have any legally enforceable rights to ensure the enforcement of these standards, creating a significant gap in the legal framework and access to effective remedies.<sup>127</sup> Furthermore, we note concerns that the current Regulations provide a lower standard for local authority tenants than private sector tenants.<sup>128</sup> We acknowledge the State's claim that local authorities hold responsibility for the maintenance and management of housing stock. However, despite the delegation of authority for service provision at a local level, the central Government remains accountable for compliance with the human rights obligations it agreed to undertake when ratifying the Charter.

**In light of the longstanding and updated evidence available from the communities impacted,<sup>129</sup> and the State's failure to provide sufficient information on the extent to which local authority housing conditions have improved in practice, we are of the view that this situation has still not been brought into conformity with the Charter.**

## Preventative maintenance and repairs

Since the last reporting cycle, the State's Rebuilding Ireland<sup>130</sup> action plan has been replaced by the national policy framework, Housing For All.<sup>131</sup> With regard to the conditions of social housing stock, there is an objective in Housing For All for all local authorities to move to a planned management and maintenance approach by Q1 2024.<sup>132</sup> There was a similar action

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<sup>126</sup> Current retrofitting targets would see 36,5000 of the 140,000 social housing units in the country retrofitted by 2030. For more see discussion: Joint Oireachtas Committee on Climate Action: [Energy Poverty](#) (23 May 2023).

<sup>127</sup> Under the [Residential Tenancies Act 2004 Section 3\(2\)](#) local authority tenancies are excluded from the dispute resolution services of the Residential Tenancies Board.

<sup>128</sup> See Community Action Network, [Comments on the 18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021), pp. 5-8.

<sup>129</sup> For more on the 2020 maintenance survey of social housing by CAN and NUIG see: Community Action Network and Centre for Housing Law, Rights and Research, [Comments on Ireland's 17<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2020), pp. 12-18. See also: Raffaele Grotti, Helen Russell, Éamonn Fahey & Bertrand Maitre, [Discrimination and Inequality in Housing in Ireland](#) (IHREC and the ESRI, 2018).

<sup>130</sup> Government of Ireland, [Rebuilding Ireland: Action Plan for Housing and Homelessness](#) (2016).

<sup>131</sup> Government of Ireland, [Housing for All: A New Housing Plan for Ireland](#) (2021).

<sup>132</sup> Government of Ireland, [Housing for All: A New Housing Plan for Ireland](#) (2021), p. 114, Objective 20.6.

in Rebuilding Ireland for local authorities to speed up refurbishment and re-letting of vacant units through the adoption of a preventative maintenance approach to housing stock management.<sup>133</sup> This action was projected for completion in Q4 2016. Given the seriousness of the Committee's findings in this complaint, these policy implementation deficits are of concern.

Respondents to a Commission-supported survey recently indicated significant difficulties in getting repairs, including due to considerable delays.<sup>134</sup> Emergency problems such as a burst water tank or smoking fuse board were reported as taking up to five days, while other urgent issues like a leaking roof took up to ten.<sup>135</sup> For routine repairs, residents reported waiting more than twelve weeks.<sup>136</sup> This builds on existing survey evidence that the majority of residents do not get repairs carried out in a timely manner and are not kept informed of the timeframes for delivery.<sup>137</sup> A significant number of residents have reported being told that problems such as mould and damp were their responsibility.<sup>138</sup> Furthermore, where repairs were carried out, 71% of respondents in one survey reported that the work completed was of a poor quality.<sup>139</sup>

**In light of the growing body of evidence of unsatisfactory management of adequate housing conditions for tenants,<sup>140</sup> we are of the view that this situation continues to**

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<sup>133</sup> Government of Ireland, [Rebuilding Ireland: Action Plan for Housing and Homelessness](#) (2016), p. 104, Action No. 5.3.

<sup>134</sup> North Clondalkin Community Development Project and St. Kevin's Family Resource Centre, *Living Our Rights: Building capacity to address human rights failures and inequalities in South Dublin County* (2022), pp. 11-12.

<sup>135</sup> North Clondalkin Community Development Project and St. Kevin's Family Resource Centre, *Living Our Rights: Building capacity to address human rights failures and inequalities in South Dublin County* (2022), pp. 11-12.

<sup>136</sup> North Clondalkin Community Development Project and St. Kevin's Family Resource Centre, *Living Our Rights: Building capacity to address human rights failures and inequalities in South Dublin County* (2022), pp. 11-12.

<sup>137</sup> Robert Emmet CDP, [Environmental Conditions of Oliver Bond Flats Report on Survey](#) (2021), p. 8.

<sup>138</sup> Robert Emmet CDP, [Environmental Conditions of Oliver Bond Flats Report on Survey](#) (2021), p. 8.

<sup>139</sup> Robert Emmet CDP, [Environmental Conditions of Oliver Bond Flats Report on Survey](#) (2021), p. 8.

<sup>140</sup> For more on the 2020 maintenance survey of social housing by CAN and NUIG see: Community Action Network and Centre for Housing Law, Rights and Research, [Comments on Ireland's 17<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2020), pp. 12-18.

**violate Article 16 of the Charter. The limited detail provided in the State’s report on maintenance and repair works supports this finding.<sup>141</sup>**

## Regeneration projects

We welcome positive updates in the State’s report on the progression of a number of regeneration projects.<sup>142</sup> However, we are concerned by the slow progress to date and the inconsistency in the State’s reporting on the delivery of these projects.<sup>143</sup> There is a lack of clarity in the presentation of some figures in the State’s report,<sup>144</sup> which can make it difficult to determine if targets have been met. It is important that the information provided by the State is clear and sufficiently precise to allow for an accurate assessment of performance.

A number of projects listed in the State’s first follow-up response to this collective complaint do not appear to have progressed in the years that have passed since. Dolphin House, which was specifically referenced in the initial complaint, was reported as being in Phase 1B in 2019 and was projected to provide 35 new units.<sup>145</sup> In the State’s 2022 report, this project is still in Stage 1, the preliminary discussion stage, and will provide 28 new units.<sup>146</sup> Other examples of this lack of progression can be seen in the State’s reporting on

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<sup>141</sup> In previous reporting cycles, specific information was given in the State’s report in relation to works done on boilers, windows and doors, rooves and condensation, in addition to energy retrofitting works. See: Government of Ireland, [17<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2020), pp. 14-15; Government of Ireland, [18<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2021), pp. 13-15. Contrast this with: Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), pp. 15-16 where information is only provided on the retrofitting scheme and the total number of units returned to active use.

<sup>142</sup> Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022).

<sup>143</sup> The Community Action Network gave an account of previous discrepancies in the State’s reporting on regeneration projects in their last submission to the Committee. See: Community Action Network, [Comments on the 18<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2021), pp. 12-14.

<sup>144</sup> Under this section in the State’s 2021 report, it was indicated that regeneration projects had delivered 560 new units from 2016-2019 and they were projected to yield in excess of 730 new units into 2023. Under this section in the State’s current report, it is now indicated that from 2016-2022 regeneration projects have delivered 668 units and are projected to yield 639 units in 2027. It is unclear from this presentation of figures whether the targets set out in the 2021 Report were achieved. See: Government of Ireland, [18<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2021), p. 15; Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), p. 16.

<sup>145</sup> Government of Ireland, [17<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2020), pp. 15-16.

<sup>146</sup> Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), see Appendix, p. 26.

O'Devaney Gardens,<sup>147</sup> Southill,<sup>148</sup> Pearse House,<sup>149</sup> and Constitution Hill.<sup>150</sup> Furthermore, some regeneration projects, which featured in previous State reports, are omitted from the current response and it is not clear whether or not they have been completed. We note the practice of the State to date in reporting on completed projects.<sup>151</sup>

Overall, a significant portion of the information provided on the ongoing regeneration projects does not detail actions that have been taken to date, but focuses on prospective actions.

**Notwithstanding some positive developments, we are of the view that based on the State's report to the Committee that progress in responding to this complaint continues to be slow. Given that the designation of a regeneration project involves recognition that social housing tenants are living in inadequate conditions, further delays perpetuate and exacerbate the existing rights violations. The situation has not been brought into conformity with Article 16.**

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<sup>147</sup> In 2019, the State reported O'Devaney Gardens as being 'on-site' and with the capacity to deliver 56 units by Q2 2020. In 2022, the State reports O'Devaney Gardens as being 'on-site' with the capacity to deliver 56 units. No timeframe is provided. See Government of Ireland, [17<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2020), p. 22, Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), p. 26.

<sup>148</sup> In 2019, the State reported that the second phase of the Churchfield, Southill project would commence at the end of 2019 and would deliver 38 new units. In 2021, the State reported that pre-tender approval had been issued for the construction of 38 units at Churchfield, Southill Phase 2 and the project was due to commence on-site mid-2021. In 2022, the State reported that approval has been issued for the construction of 37 units at Churchfield, Southill Phase 2 and completion is expected in Q3 2023. See: Government of Ireland, [17<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2019), p. 25, Government of Ireland, [18<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2021), p. 24, Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), p. 28.

<sup>149</sup> In 2021, the State reports Pearse House as having been subject to an initial proposal for a regeneration project. In 2022, Pearse House is still in Stage 1, the preliminary discussion phase. See: Government of Ireland, [18<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2021), p. 21, Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), p. 26.

<sup>150</sup> In 2021, the State reported Constitution Hill as being in Stage 1 and with the capacity to deliver 130 units. In 2022, the State reported that Constitution Hill is still in Stage 1 and will deliver 124 units. See: Government of Ireland, [18<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2021), p. 22, Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022), p. 25.

<sup>151</sup> In 2019, the State reported St. Teresa's Gardens as being 'on-site' and with the capacity to deliver 54 units by Q3 2020. In the 2020 report, the State reported St. Teresa's Gardens as being under construction with 54 to be delivered by the end of 2020. There is no reference to St. Teresa's Gardens in the 2022 report. See: Government of Ireland, [17<sup>th</sup> National Report on the implementation of the European Social Charter](#) (2020), p. 21, Government of Ireland, [18<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2021) p. 21, Government of Ireland, [20<sup>th</sup> National Report on the Implementation of the European Social Charter](#) (2022).

## European Organisation of Military Associations (EUROMIL) v Ireland, Complaint No. 112/2014

We note our 2022 comments on Article 5,<sup>152</sup> the recent observations submitted to the Committee by EUROMIL,<sup>153</sup> and the update in the State's report that the required legislative provision for associate membership of national employees' organisations by military representative bodies has yet to be put in place.<sup>154</sup>

**We are of the view that as the prohibition against military representative bodies from joining national employees' organisations has yet to be removed, the current legislative framework continues to be in non-conformity with Article 5 of the Charter.**

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<sup>152</sup> See IHREC, [Comments on Ireland's 19th National Report on the implementation of the European Social Charter](#) (2022), pp. 26-29.

<sup>153</sup> EUROMIL, [Observations on the 20th National Report on the Implementation of the European Social Charter submitted by the Government of Ireland](#) (2023).

<sup>154</sup> Government of Ireland, [20th National Report on the implementation of the European Social Charter](#) (2022), p. 19.

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

We recall that in 2019, the Committee found Ireland in violation of Articles 4(3) and 20.c of the Charter on the grounds that the obligations to ensure pay transparency in practice and achieve measurable progress in reducing the gender pay gap were not satisfied.<sup>155</sup> It also found a violation of Article 20.d of the Charter due to insufficient progress in ensuring a balanced representation of women in decision-making positions within private companies.<sup>156</sup> We further note the Recommendation by the Committee of Ministers in 2021 that Ireland review and reinforce existing measures aimed at reducing and eliminating the gender pay gap and consider adopting any new measures, and to report on actions taken in this respect as part of the follow-up reporting procedure.<sup>157</sup>

### Gender pay gap reporting (Articles 4(3) and 20.c)

A persistent gender pay gap inhibits economic equality for women, with serious implications for women's lifetime earnings, life and career decisions, and the ability to live in older years with a decent income.<sup>158</sup> Despite limited progress, the gender pay and pension gaps stand at approximately 12.6%, and 35%, respectively.<sup>159</sup> While we welcome measures introduced in 2022 to address the gender pay gap in Ireland, notably through the Gender Pay Gap Information Act 2021, the impact, in practice, has yet to be seen. Also, due to the limited scope of reporting obligations under the Act, which currently applies to organisations with

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<sup>155</sup> European Committee of Social Rights, [Decision on the merits: University Women of Europe \(UWE\) v. Ireland, Complaint No. 132/2016](#) (2020).

<sup>156</sup> European Committee of Social Rights, [Decision on the merits: University Women of Europe \(UWE\) v. Ireland, Complaint No. 132/2016](#) (2020).

<sup>157</sup> Committee of Ministers, [Recommendation CM/RecChS\(2021\)9 University Women of Europe \(UWE\) against Ireland Complaint No. 132/2016](#) (2021).

<sup>158</sup> Cumulative differences in employment rates, participation in part-time work, work quality and remuneration result in substantial gender gaps in earnings and career advancement. This contributes to lower lifetime earnings and a greater risk of old-age poverty for women. See OECD, [Gender Equality and Work](#).

<sup>159</sup> PwC Ireland analysed the gender pay gap reports of up to 500 companies that published their reports under the *Gender Pay Gap Information Act 2021* by the first reporting deadline of 31 December 2022. The analysis identified a mean gender pay gap of 12.6% across Irish organisations, compared to Ireland's previous available national gender pay gap of 11.3% (2019) and an EU average gender pay gap of 13% (for 2020), based on Eurostat data. PwC, [PwC's Gender Pay Gap analysis reveals a mean gender pay of 12.6%](#) (2023). In 2019, the Economic Social and Research Institute estimated that Ireland had a gender pension gap of approximately 35%. See ESRI, [Ireland has a gender pension gap of 35 per cent](#) (2019).

250+ employees, reports submitted to date fail to capture the gender pay gap across micro, small and medium-sized enterprises (SMEs), which account for 99.8% of all active enterprises in Ireland, and 68% of all employment.<sup>160</sup>

The State is planning to introduce an online platform in 2023 to improve public oversight of the gender pay gap, and we stress the importance of such a facility in ensuring pay transparency under the Charter.<sup>161</sup> We remain concerned, however, by reports that some Government Departments missed their December 2022 deadlines, and call for greater urgency and prioritisation in implementing the statutory obligations under the 2021 Act.<sup>162</sup> We have been provided with new legal powers to tackle gender pay gaps in organisations through the Gender Pay Gap Information Act 2021.<sup>163</sup>

**Despite recent legislative measures, there remains a persistent gender pay gap in Ireland and obstacles for victims seeking to enforce their rights. We note in particular the limited scope of companies covered by the Gender Pay Gap Information Act 2021 and the lack of progress in introducing an online reporting system. We are of the view that in light of these ongoing inadequacies, Ireland is in breach of its positive obligation to ensure pay comparison and pay transparency in practice, and continues to be in non-conformity with Articles 4.3 and 20.c of the Charter.**

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<sup>160</sup> OECD, [Financing SMEs and Entrepreneurs 2022: An OECD Scoreboard: Ireland](#) (2022). The reporting obligations under the Act apply to private and public sector employers with 250+ employees in 2022 and 2023. The Act widens the scope to employers with 150+ employees on or after the second anniversary of the regulations (2024) and to employers with 50+ employees on or after the third anniversary of the regulations (2025). There will be no requirement on employers with less than 50 employees to report on the gender pay gap. See also IHREC, [Submission to the UN Committee on Economic, Social and Cultural Rights for the List of Issues on Ireland's Fourth Periodic Report](#) (2021), p. 24; and Government of Ireland, [20th National Report on the implementation of the European Social Charter submitted by the Government of Ireland](#) (2022).

<sup>161</sup> According to the Departmental press release, plans are in place to develop an online reporting system for the 2023 reporting cycle. See Government of Ireland, [Minister O'Gorman announces introduction of gender pay gap reporting in 2022](#) (2022).

<sup>162</sup> See C. O'Carroll, [Four government departments miss deadline to publish gender pay gap reports](#) (Irish Examiner, 12 January 2023).

<sup>163</sup> Where the Commission has reasonable grounds for believing that an employer has failed to comply with the requirement to publish gender pay gap information under the Act, the Commission may apply to the Circuit Court or the High Court for an order requiring the employer to comply. An employer that fails to comply with a Circuit Court or High Court order will be in contempt of that Court. The Commission may also carry out, or invite a particular undertaking, group of undertakings or the undertakings making up a particular industry or sector, to carry out an equality review or prepare and implement an equality action plan. The Minister for Justice and Equality may also request the Commission to consider exercising these powers of review. See Sections 3 and 5 of *the Gender Pay Gap Information Act 2021*.



## Indicators for assessing compliance with the Charter (Article 20.c)

Data collection is essential to ensure pay transparency in practice, and comprehensive reporting. As highlighted by the Committee:

“where it is known that a certain category of persons is, or might be, discriminated against, it is the duty of the national authorities to collect data to assess the extent of the problem.”<sup>164</sup>

The gender pay gap disproportionately affects structurally vulnerable women in Ireland, with evidence suggesting a wider gap for minority ethnic women,<sup>165</sup> Traveller women,<sup>166</sup> disabled women,<sup>167</sup> and non-Irish women.<sup>168</sup> However, the 2021 Act imposes no duty on employers to disaggregate data across multiple equality grounds covered by the Employment Equality Acts 1998-2015 in their annual gender pay gap calculations. We are of the view that the State’s failure to apply an intersectional lens<sup>169</sup> to pay gap reporting fundamentally prevents any detailed examination of the root causes of the pay inequality, and the design and implementation of effective policies to reduce it.<sup>170</sup>

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<sup>164</sup> European Committee of Social Rights, [Decision on the merits: University Women of Europe \(UWE\) v. Ireland, Complaint No. 132/2016](#) (2020), para. 186.

<sup>165</sup> While data is limited in Ireland, figures published by the Office for National Statistics in the UK estimate a gender pay gap of 26% for Black African women compared to the average male worker. See Office for National Statistics, [Ethnicity pay gap reference tables](#) (2020).

<sup>166</sup> There remain significant data gaps on Traveller employment and pay in Ireland. According to a 2019 survey conducted by the Fundamental Rights Agency, the majority of Travellers are in part-time employment (58%), and only 26% have a permanent contract. See FRA, [Travellers in Ireland: Key results from the Roma and Travellers Survey 2019](#) (2020), p. 4.

<sup>167</sup> According to the European Disability Forum 2023, 15% of disabled women in Ireland were in full-time employment in 2020, the lowest rate of employment across the EU. The report also reveals that disabled people still earn less when employed, even though they need more income to face the additional costs of living in a discriminatory and inaccessible society. The report highlights that disabled people also incur higher costs for being employed, such as paying for special transportation due to inaccessible public transport, extra for personal assistance at more convenient hours, etc. See European Disability Forum, [Majority of persons with disabilities locked out of quality employment](#) (2023).

<sup>168</sup> Non-Irish women earn 11 per cent less than non-Irish men, who in turn earn 18 per cent less than Irish men. This means non-Irish women earn 30 per cent less than Irish men. See ESRI, [Wages and working conditions of non-Irish nationals in Ireland](#) (2023), p. viii.

<sup>169</sup> At present under the 2021 Act, all employees who self-identify as ‘male or female’ must be included in gender pay gap calculations, although there is no requirement for companies to disaggregate data across other equality grounds such as ethnicity, disability or family status.

<sup>170</sup> As recommended by the Global Institute for Women’s Leadership, an intersectional approach to gender pay gap reporting allows for identification of barriers experienced by particular groups of women ascending the career ladder. Intersectionality is critical for developing more targeted approaches to addressing these gaps. Global Institute for Women’s Leadership, [Bridging the gap? An analysis of gender pay gap reporting in six countries](#) (2021), p. 14.

Improved availability of gender pay gap data is also critical to bring pay discrimination cases before the Workplace Relations Commission, as a hypothetical comparator is not permissible under Irish equality law.<sup>171</sup> In this regard, we note a scarcity in data on the number of successful equal pay complaints on the grounds of gender.<sup>172</sup>

We welcome the recent adoption of the EU Pay Transparency Directive, to be transposed by Member States by June 2026.<sup>173</sup> We note that the Directive goes further than Ireland's Gender Pay Gap Information Act 2021, as it provides for intersectional discrimination and contains provisions ensuring that the needs of disabled workers are taken into account. The Directive additionally requires publication of the gender pay gap by 'categories of worker', which includes job functions or grades of worker, in contrast to current Irish legislation requiring employers to calculate the gender pay gap for both its entire workforce and between part-time and full-time employees.<sup>174</sup>

**We are of the view that Ireland continues to be in non-conformity with Article 20.c of the Charter, in particular due to its ongoing failure to collect disaggregated data to measure progress in ensuring equal pay for equal or like work for structurally vulnerable women.**

## Women's representation on corporate boards (Article 20.d)

Despite repeated recommendations,<sup>175</sup> the State has yet to bring forward legislative proposals for introducing mandatory 40% gender quotas on corporate boards. Under the recent EU 'Women on Boards' Directive, to be transposed by Member States by June 2026, relevant companies will be required to have 40% of non-executive directors or 33% of all

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<sup>171</sup> The *Employment Equality Acts* do not allow a person making an Equal Pay claim to use a 'hypothetical comparator', instead they must identify another specific person doing like work for greater pay. This is extremely difficult in many cases and impossible in some. See Free Legal Advice Centre (FLAC), [FLAC Guide: The Review of the Equality Acts, Making a Submission to the Review, & The Key Issues Under Review](#) (2021).

<sup>172</sup> While the WRC publishes figures within its Annual Report, there is no data specifically relating to equal pay complaints on the grounds of gender. From a search of the WRC [Database of Decisions](#), it appears that there were no successful equal pay complaints on the gender ground in 2021. We note that some complaints may be resolved through mediation facilitated by the WRC, which is confidential under the *Workplace Relations Act 2015*. As a result, there may be less visibility with regard to the nature and extent of discrimination in the State. See IHREC, [Submission on the Review of the Equality Acts](#) (2021), p. 44.

<sup>173</sup> European Council, [Gender Pay Gap: Council adopts new rules on pay transparency](#) (April 2023).

<sup>174</sup> European Council, [Gender Pay Gap: Council adopts new rules on pay transparency](#) (April 2023).

<sup>175</sup> See Houses of the Oireachtas, [Unfinished Democracy: Achieving Gender Equality Final Report December 2022](#) (2022), p. 20; Citizens' Assembly on Gender Equality, [Final Report](#) (2022), p. 69.

directors as ‘members of the underrepresented sex’.<sup>176</sup> We note that the Directive also creates an obligation on a company to take positive action for increasing the representation of the ‘underrepresented sex’ on company boards if the target is not met.<sup>177</sup>

There remains a significant gender gap in the leadership of private sector businesses in Ireland. According to 2023 figures, Irish publicly-listed companies continue to have an average female representation of 32% at board level, the same figure as 2022.<sup>178</sup> Women’s representation on boards across the top ‘Irish Stock Exchange Index’ companies (‘ISEQ20’) is slightly higher at 35%, while their representation on boards on ‘Other Listed Companies’ is approximately 23%.<sup>179</sup> This is particularly concerning given that women on top-listed boards often credit leadership experience on smaller boards, including SMEs, as a crucial pathway for future career development.<sup>180</sup> Notwithstanding some positive developments, progress in women’s representation in key leadership roles, including Chairs, Chief Executive Officers and Chief Financial Officers, remains considerably slow and in some instances has regressed. We note that women in Chair roles has fallen from 8.1% in September 2022 to 2.8% in March 2023, and that there are no women Chairs among the ISEQ20.<sup>181</sup> Similarly, 3 in 36 CEOs across listed Irish companies are women, having fallen from 11.1% to 8.3% in March 2023.<sup>182</sup>

**We are of the view that the situation in Ireland has not been brought into conformity with Article 20.d of the Charter, evidenced by the slow progress, and in some cases regression, in ensuring a balanced representation of women in decision-making positions within**

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<sup>176</sup> See European Commission, [Gender Equality: The EU is breaking the glass ceiling thanks to new gender balance targets on company boards](#) (2022).

<sup>177</sup> Art 6(2): As regards the selection of candidates for appointment or election to director positions, Member States shall ensure that, when choosing between candidates who are equally qualified in terms of suitability, competence and professional performance, priority is given to the candidate of the underrepresented sex unless, in exceptional cases, reasons of greater legal weight, such as the pursuit of other diversity policies, invoked within the context of an objective assessment which takes into account the specific situation of a candidate of the other sex and which is based on non-discriminatory criteria, tilt the balance in favour of the candidate of the other sex. See European Commission, [Gender Equality: The EU is breaking the glass ceiling thanks to new gender balance targets on company boards](#) (2022).

<sup>178</sup> See Balance for Better Business, [Press Release March 2023](#) (2023).

<sup>179</sup> See Balance for Better Business, [Press Release March 2023](#) (2023).

<sup>180</sup> DirectHer Network and Mount Royal University, *Pathways to Board Work for Women and Gender Diverse People: Understanding Experiences and Barriers* (2022); Seierstad, C., Tatli, A., Aldossari, M., & Huse, M., *Broadening of the Field of Corporate Boards and Legitimate Capitals: An Investigation into the Use of Gender Quotas in Corporate Boards in Norway*. *Work, Employment and Society* (2020), p. 17.

<sup>181</sup> See Balance for Better Business, [Press Release March 2023](#) (2023).

<sup>182</sup> See Balance for Better Business, [Press Release March 2023](#) (2023).

**private companies. We note the continued failure to introduce mandatory 40% gender quotas for corporate boards in legislation.**

## Promotion of policy and other measures (Articles 20.c and 20.d)

Articles 20.c and 20.d of the Charter place a positive obligation on the State to advance policy and other measures to promote the right to equal pay for equal work or work of equal value, and to promote the advancement of women in decision-making positions in private companies, respectively.

### Gender mainstreaming

In 2021, the Committee of Ministers recommended that States promote complementary policy measures to tackle vertical and horizontal occupational gender segregation in employment, and to improve women’s participation in a wider range of jobs and occupations.<sup>183</sup> As identified in the State report, the overrepresentation of women in minimum wage employment:

“means the rate at which it is set remains crucial for the economy-wide Gender Pay Gap.”<sup>184</sup>

We are of the view that to effectively reduce the gender pay gap in Ireland, policy and legislative measures, including measures to advance the living wage,<sup>185</sup> must explicitly recognise the gendered nature of low pay. Women in Ireland experience a higher incidence of low pay in comparison to men, with 18.3% of women workers in low paid jobs, compared to 12% of men workers, and women accounting for nearly 60% of all low paid workers.<sup>186</sup>

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<sup>183</sup> Council of Europe, [Declaration by the Committee of Ministers on equal pay and equal opportunities for women and men in employment](#) (2021).

<sup>184</sup> Government of Ireland, [20th National Report on the implementation of the European Social Charter submitted by the Government of Ireland](#) (2022), p. 22.

<sup>185</sup> The Government has recently proposed the introduction of a living wage that will be tied to the threshold of 60% of the annual median income in a given year and phased in incrementally by 2026. We are of the view that the introduction of the living wage in Ireland must include the active participation of rights-holders and be calibrated to existing social norms, evolving requirements and living costs. This is particularly important to tackle the longstanding gendered nature of low pay in Ireland. IHREC, Forthcoming Submission to the Voluntary National Review of the High Level Political Forum on Ireland’s Implementation of the 2030 Agenda for Sustainable Development (2023).

<sup>186</sup> Eurostat, [Incidence of low pay](#) (2022).

We further highlight the Committee of Minister’s reference to gender mainstreaming at national level as part of the positive obligations imposed by Article 20.c.<sup>187</sup> We remain concerned by the absence of any published final independent evaluation of, or successor strategy to, the National Strategy for Women and Girls 2017-2020 (‘NSWG’),<sup>188</sup> which expired at the end of 2021.<sup>189</sup> The development of a new National Strategy should consider the gendered impact of the State’s response to Covid-19, particularly as regards women’s employment,<sup>190</sup> and include specific measures to mitigate the impact of future emergencies on gender equality.<sup>191</sup> It is essential that the State aligns the successor NSWG strategy to Ireland’s national employment strategy, *Pathways to Work*, which currently does not recognise women as a group in need of additional support. As we have highlighted to the State, this omission obscures the barriers to employment for women and disproportionately impacts women’s employment outcomes.<sup>192</sup>

In addition to gender mainstreaming, we are of the view that constitutional reform<sup>193</sup> is required in Ireland to tackle gender stereotypes deeply embedded in ‘the repository of our

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<sup>187</sup> European Committee of Social Rights, [Decision on the merits: University Women of Europe \(UWE\) v. Ireland, Complaint No. 132/2016](#) (2020), para 95.

<sup>188</sup> A combined evaluation of the Migrant Integration Strategy, the National Strategy for Women and Girls, and the National Traveller and Roma Inclusion Strategy has been commissioned and this exercise was due to conclude by Q3 2022, although the Minister has since indicated that it will be published in 2023. See Government of Ireland, [National Reform Programme for the European Semester](#) (April 2022), p. 57; Kildare Street, [Written answers Thursday, 30 March 2023](#) (2023).

<sup>189</sup> The Strategy was extended to 2021 to take account of the pandemic impact. See Houses of the Oireachtas, [Joint Committee on Gender Equality debate - Thursday, 24 Mar 2022](#) (2022).

<sup>190</sup> In the labour market, the impact of the pandemic appeared to affect men and women equally, however job losses for women were most widespread among the lowest-paid workers. Although women retained employment in some sectors where they have a high concentration, such as essential services and teleworkable jobs, other sectors where women are overrepresented such as hospitality and care saw far greater job losses during the pandemic than other sectors. Conversely, men’s job losses were more evenly distributed. See Eurofound, [COVID-19 pandemic and the gender divide at work and home](#) (2022). See also: Brioscú, A., O’Reilly, J. D., and Coates, D. 2021. The COVID-19 Pandemic and Ireland’s Labour Market: Insights through the Lens of the Pandemic Unemployment Payment and the Characteristics of Impacted Workers. *The Economic and Social Review*, 52(2): 193-216.

<sup>191</sup> See Compendium of resources: the gender impact of the COVID-19 pandemic and gender-sensitive responses. See also Rethink Ireland and National Women’s Council, [The impact of Covid-19 on women’s economic mobility](#) (2021).

<sup>192</sup> Under the ‘working for all’ strand of action, the *Pathways to Work Strategy* considers the particular needs of: single parents, disabled people, older people and returners, young people, and other structurally vulnerable groups. Department of Social Protection, [Pathways to Work 2021-2025](#) (2021). See also IHREC, [Public consultation on the mid-term review of the Pathways to Work Strategy 2021 – 2025](#) (2023).

<sup>193</sup> In June 2021, the Citizens’ Assembly on Gender Equality published its 45 priority recommendations, including recommendations for constitutional reform: amending Article 40.1 to refer explicitly to discrimination on the grounds of gender, and amending Article 41.2 to reflect language that is gender-neutral and supports care within the home and wider community. See Citizens’ Assembly on Gender Equality, [Final](#)

highest rights and values',<sup>194</sup> including in Article 41.2 where references to 'mother' and 'women' are interchangeable.<sup>195</sup> We note the Government's recent announcement to hold a referendum in November 2023 to enshrine gender equality in the Constitution and to recognise care within the home and wider community.<sup>196</sup>

## Family-friendly workplace practices

While educational attainment is high amongst women,<sup>197</sup> research demonstrates that women's lower levels of work experience relates to them tending to take more time out of the labour market for family-related reasons, including reduced working hours and/or career gaps.<sup>198</sup> This can result in a lack of career progression for women, reinforcing vertical segregation between women and men in the workplace, with higher paid roles being held predominantly by men.<sup>199</sup>

We stress the importance of implementing measures to tackle institutional misogyny in the workplace, including by advancing family-friendly workplace practices. In June 2021, the Citizens' Assembly on Gender Equality recommended a number of reforms to current parental leave entitlements in Ireland, including that paid parent's leave should cover the first year of a child's life.<sup>200</sup> While leave periods have been extended in recent years, we note that single-parent families cannot avail of the same leave entitlements as two-parent

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[Report](#) (June 2021). Alternative wordings for Articles 40.1 and 41.2 of the Constitution have been further identified by a Parliamentary Joint Committee on Gender Equality. See Houses of the Oireachtas, [Unfinished Democracy: Achieving Gender Equality Final Report December 2022](#) (2022). We appeared before the Joint Committee in March 2022 and made a subsequent submission in November 2022, outlining recommendations for constitutional reform and possible wording. See IHREC, Submission to the Joint Committee on Gender Equality (2022); and Houses of the Oireachtas, [Joint Committee on Gender Equality debate - Thursday, 10 Mar 2022](#) (2022).

<sup>194</sup> IHREC, [The Incorporation of Economic, Social and Cultural Rights into the Irish Constitution](#) (2023).

<sup>195</sup> Article 41.2 of the Constitution of Ireland: 1° In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved; 2° The State shall, therefore, endeavor to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home. See also IHREC, [Submission to the Citizens' Assembly on Gender Equality](#) (March 2020), p. 31.

<sup>196</sup> Government of Ireland, [Taoiseach and Minister O'Gorman announce holding of referendum on gender equality](#) (2023).

<sup>197</sup> According to recent figures by EUROSTAT, 30% of Irish women were overqualified in their current job compared to 27.7% of Irish men, with Ireland one of 19 EU countries to have higher over-qualification rates among women. See Eurostat, [Employment - annual statistics](#) (2023).

<sup>198</sup> IBEC, [Navigating the Gender Pay Gap](#) (2022), p. 7.

<sup>199</sup> IBEC, [Navigating the Gender Pay Gap](#) (2022), p. 7.

<sup>200</sup> See Citizens' Assembly on Gender Equality, [Final Report](#) (June 2021).

families.<sup>201</sup> Civil society organisations have also noted that the limited uptake of paid parental leave in Ireland across maternity, paternity and parental leave schemes, stems from the relatively lower rates of pay in comparison to other EU Member States.<sup>202</sup>

## Sharing and supporting care

In line with Ireland's obligations under Article 20 of the Charter, we are of the view that women's equal treatment in employment and representation in decision-making positions is significantly constrained by the unequal division of caring responsibilities.<sup>203</sup> Ireland has one of the largest employment gaps between men and women in the EU,<sup>204</sup> and women spend an average of two and three-quarters more hours on unpaid work than men.<sup>205</sup> 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.<sup>206</sup> We continue to call for an overhaul of the State's policy framework for care, to ensure that care work in Ireland is adequately supported, publically valued, and equally shared.<sup>207</sup>

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<sup>201</sup> Paid parent's leave allows each parent of the child to avail of seven weeks' leave during the first two years of a child's life. It is critical that single-parent families be able to avail of the same leave supports as two-parent families, as recommended by both the Citizens' Assembly on Gender Equality and Joint Parliamentary Committee on Gender Equality: Citizens' Assembly on Gender Equality, [Final Report](#) (June 2021), p. 13; and Houses of the Oireachtas, [Unfinished Democracy: Achieving Gender Equality Final Report December 2022](#) (2022), p. 12.

<sup>202</sup> National Women's Council of Ireland, [National Women's Council calls for better paid family leave and a Universal State Pension](#) (2020).

<sup>203</sup> See IHREC, [Care About Equality Campaign](#) (2022) and IHREC, [Submission to the European Semester 2023 and the National Reform Programme](#) (2023).

<sup>204</sup> Ireland's gender employment gap was one of the largest in the EU and one of just nine to exceed the 27 country-wide average, with 72.6% of women in employment compared with 83.9% of men. See Eurostat, [Employment - annual statistics](#) (2023).

<sup>205</sup> Women in Ireland spend more time in unpaid work, with an average of approximately 488 minutes per day working - 195 minutes in paid work and 293 minutes in unpaid work. This compares to men who spend on average 468 minutes per day working, with 341 minutes per day doing paid work and just 127 minutes in unpaid work. See Foundation for European Progressive Studies, [EU Care Atlas: how care deficits impact the gender earnings gap](#) (2022).

<sup>206</sup> The 'hours gap' refers to the difference in the rates of part-time employment between men and women. As women are more likely to take reduced hours to take on caring responsibilities than men, it is indicative of where care really impacts employment. In Ireland, 30.7 per cent of women and just 9 per cent of men are engaged in part-time employment, a gap of 21.7 percentage points. The EU average is 24 per cent of women and 7.46 per cent of men, a gap of 16.54 percentage points. See Foundation for European Progressive Studies, [EU Care Atlas: how care deficits impact the gender earnings gap](#) (2022).

<sup>207</sup> We have repeatedly commented about the highly-gendered nature of unpaid care work in Ireland. See IHREC, [Care About Equality Campaign](#) (2022) and IHREC, [Submission to the European Semester 2023 and the National Reform Programme](#) (2023).



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



The Irish Human Rights and  
Equality Commission  
**16 – 22 Sráid na Faiche,  
Baile Átha Cliath, D07 CR20**  
16 – 22 Green Street,  
Dublin, D07 CR20

Íosghlao/Lo-Call 1890 245 245  
Guthán/Phone + 353 (0) 1 858 3000  
Ríomhphost/Email [info@ihrec.ie](mailto:info@ihrec.ie)  
Idirlíon/Web [www.ihrec.ie](http://www.ihrec.ie)  
🐦 @\_ihrec  
📍 /irishhumanrightsequality