



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

Ireland and the 6th Monitoring Cycle of the European Commission against Racism and Intolerance

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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Acronyms

CEDAW	Committee on the Elimination of Discrimination Against Women
CESCR	Committee on Economic, Social and Cultural Rights
CSO	Central Statistics Office
DCEDIY	Department of Children, Equality, Disability, Integration and Youth
ECRE	European Council on Refugees and Exiles
ECRI	European Commission against Racism and Intolerance
FLAC	Free Legal Advice Centres
FRA	Fundamental Rights Agency
GREVIO	Group of Experts on Action Against Violence Against Women and Domestic Violence
HIQA	Health Information and Quality Authority
HSE	Health Service Executive
IHREC	Irish Human Rights and Equality Commission
ILGA	International Lesbian, Gay, Bisexual, Trans, and Intersex Association
INAR	Irish Network Against Racism
LGBTI+	Lesbian, Gay, Bisexual, Transgender and Intersex
NAPAR	National Action Plan Against Racism
NIHRC	Northern Irish Human Rights Commission
UN	United Nations
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities

UNHRC United Nations High Commissioner for Refugees

WRC Workplace Relations Commission

Introduction

The Irish Human Rights and Equality Commission ('the Commission') is the 'A' status National Human Rights Institution and the National Equality Body for Ireland, established under the *Irish Human Rights and Equality Commission Act 2014*. As well as our broad mandate to protect and promote human rights and equality, we are the Independent Monitoring Mechanism for Ireland under the United Nations Convention on the Rights of Persons with Disabilities,¹ and the National Rapporteur on the Trafficking of Human Beings.² We are the incoming co-ordinating National Preventive Mechanism under the Optional Protocol to the Convention against Torture, pending ratification.³ We have also taken up a role in working to uphold equality and rights protections on the island of Ireland post Brexit.⁴

We welcome the 6th monitoring cycle of the European Commission against Racism and Intolerance ('ECRI') and the forthcoming analysis of the situation in Ireland and country visit.⁵ Given the persistence and intensification of racism, discrimination and intolerance in Ireland, as demonstrated throughout our submission, the advice and recommendations of this human rights expert body will be an important and timely intervention. Building on our engagement with ECRI during the 5th monitoring cycle,⁶ this initial written input focuses on highlighting priority issues for consideration, informed by our Strategy Statement 2022-

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

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

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

⁴ In the wake of the United Kingdom's withdrawal from the EU, the Commission, along with the Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland comprise the Article 2(1) Working Group of the Dedicated Mechanism. This group is mandated to provide oversight of, and report on, rights and equality issues falling within the scope of the Article 2 commitment that have an island of Ireland dimension.

⁵ ECRI's sixth monitoring cycle began in 2019 and will involve documentary analysis, a country visit, and a confidential dialogue with national authorities in all Member States. Monitoring cycles last five years. ECRI's 5th cycle report on Ireland was adopted in 2019: [ECRI Report on Ireland: Fifth Monitoring Cycle](#) (2019).

⁶ The Commission met with ECRI during its delegation visit to Ireland in July 2018, and submitted a report on the interim follow-up recommendations to Ireland in 2021: IHREC, Submission to the European Commission against Racism and Intolerance on the interim follow-up recommendations to Ireland in the 5th monitoring cycle (2021).

2024 and expertise,⁷ ECRI's scope,⁸ as well as the recommendations selected for follow-up in 2019,⁹ recent national research, and inputs by civil society and rights holders. In April 2024, we hosted a Thought Forum on 'Keeping Hate Out of Communities' and the expertise and on the ground insights shared during the discussions are reflected throughout the sections below.

We look forward to continued engagement with ECRI in advance of its visit to Ireland and in the follow-up stages, and may submit additional and updated written material for consideration as part of this monitoring cycle.

⁷ In our Strategy Statement 2022-2024, we committed to promote the eradication of racism through public understanding and State action, as well as ableism, ageism and sexism. As set out in our Statement, a society cannot be inclusive or fair without addressing the structural and institutional arrangements, practices, policies and cultural norms, which have the effect of excluding or discriminating against individuals or groups based on their identities. IHREC, [Strategy Statement 2022–2024](#) (2022), p. 15.

⁸ ECRI is a human rights expert body that monitors action against racism, discrimination (on grounds of 'race', ethnic or national background, skin colour, citizenship, religion, language, sexual orientation, gender identity and sex characteristics), and intolerance in Europe: Council of Europe, [European Commission against Racism and Intolerance](#) (2022).

⁹ Traveller accommodation and hate speech and hate crime legislation: ECRI, [ECRI Conclusions on the Implementation of the Recommendations in Respect of Ireland Subject to Interim Follow-Up](#) (2021).

Racism, discrimination and intolerance in Ireland

During its visit to Ireland, ECRI should:

› Engage with and advise the State on European and global best practice in countering hate and extremist movements, including through education, public awareness, the creation and enforcement of regulatory standards, and policing, with a specific focus on the upcoming elections.

The population of Ireland is increasingly diverse, including in terms of ethnicity, nationality, religion, sexual orientation and gender identity. In 2022, 12% of those living in Ireland were non-Irish nationals, while one-in-five had been born in another country.¹⁰ Although data on sexual orientation and gender identity was not collected in the last census,¹¹ research indicates that 10% of 17-18 year olds in Ireland identify as LGBTI+.¹² Religious diversity is also growing, with 81,930 people in Ireland identifying as Muslims, 2,193 people identifying as Jewish, and the number of Hindus more than doubling from 13,729 to 33,043.¹³

Unfortunately, these demographic changes have not been welcomed by all in society. Since ECRI's last visit in 2018, Ireland has seen a concerning rise in racism, discrimination and intolerance, unfolding both online and in communities. Recent research from the State and civil society points to the existence of intolerant attitudes towards immigrants, Travellers, Roma and transgender people,¹⁴ which are increasingly permeating the public

¹⁰ CSO, [Census of population 2022 – Summary Results: Migration and Diversity](#) (2023).

¹¹ See the comments in this report on 'Equality data' and 'LGBTI+ equality'.

¹² N. Ceatha, G.J. Gates and D. Crowley, [LGBT+ Self-Identification Among Youth in Ireland Aged 17-18 Years: A Research Brief](#) *Population Research and Policy Review* 42 (2023), p. 64. The data in this research brief was taken from Growing Up in Ireland, the national longitudinal study of children young people in Ireland, which tracks the development of a nationally representative sample of 6,216 young people. For more information, see Government of Ireland, [Growing Up in Ireland](#) (2023).

¹³ CSO, [Census of Population 2022 - Summary Results](#) (2023).

¹⁴ Research undertaken by the Department of Children, Equality, Disability, Integration and Youth has found that just 55% of respondents would be comfortable with their child being in a relationship with a transgender person, while the figures were 44% and 43% respectively for Roma and Travellers. One in three would not be comfortable if their child was in a relationship with an asylum seeker. Just over half of those surveyed would be comfortable living next door to a Traveller. DCEDIY, [Survey on People in Ireland's attitude towards diversity](#) (2023). These findings reflect research undertaken by the University of Limerick and Queens University Belfast in 2023, which similarly indicates lower levels of acceptance of Travellers and transgender people. J. Schweppe, A. Haynes, I.R. MacMillan and K. Brown, [Public Understandings of Hate Crime: Ireland, North and South](#) (2023), pp. 46-49.

domain through protests,¹⁵ arson attacks,¹⁶ and hate speech on- and offline.¹⁷ A clear manifestation of the rise in far-right activity occurred in November 2023, when anti-immigration rioting broke out in Dublin, causing significant infrastructural damage and provoking fear and distress for targeted communities.¹⁸ The riots have been followed by escalating violence across Ireland, including 14 arson attacks on international and temporary protection accommodation since November 2023.¹⁹ This rise of anti-immigrant rhetoric has been mirrored by similar activity targeting LGBTI+ communities,²⁰ as well as widespread racial discrimination, harassment and violence against people of African descent.²¹ These movements must also be considered in the context of persistent and overt racism and discrimination against Travellers and Roma in Ireland.²² For example, there have been similar incidents of Traveller's trailers being attacked and burned, and protests at locations proposed for halting sites.²³

The growth of far-right ideology, leading to events like the Dublin riots, has been facilitated by systemic gaps in the protection against racism and intolerance in Ireland. As noted further below, the lack of adequate hate speech and hate crime legislation is of particular concern, as it leads to impunity for organisers and agitators inciting hate.²⁴ In the absence of adequate regulation, online misinformation and disinformation driven by far-right groups has steadily increased in recent years.²⁵ During the Dublin riots, prominent agitators

¹⁵ See for example Hope and Courage Collective, [How Fermoy community triumphs over far-right fear-mongering](#) (2023).

¹⁶ Dáil Debates, [Recent Arson Attacks: Statements](#) (27 February 2024).

¹⁷ Gallagher, C. O'Connor, F. Visser, [Uisce Faoi Thalamh: An Investigation Into the Online Mis- and Disinformation Ecosystem in Ireland – Summary Report](#) (2023).

¹⁸ IHREC, [Irish Human Rights and Equality Commission condemns exploitation of tragic crime by far-right elements](#) (2023).

¹⁹ J. McCarron and K. McDonald, [Mapped: The fires linked to accommodation for migrants](#) (May 2024).

²⁰ Global Project Against Hate and Extremism, [Ireland](#) (2022).

²¹ For example, in the recent 'Being Black in the EU' survey, 43% of respondents of African descent living in Ireland reported experiencing racial discrimination when trying to rent or buy an apartment or house and 40% reported that their children experienced racial harassment/bullying at school. European Union Agency for Fundamental Rights, [Being Black in the EU: Experiences of People of African Descent](#) (2023).

²² See the sections of this report on 'Travellers' and 'Roma'.

²³ Pavee Point Traveller and Roma Centre, [The Need to Ensure Hate Crime Bill is Passed as a Matter of Urgency](#) (2024).

²⁴ See the section of this report on 'Hate speech and hate-motivated violence'.

²⁵ Across a variety of digital platforms, the level of activity in the mis- and disinformation ecosystem, including the number of posts and engagement levels, as well as the number of active accounts, increased year-on-year between 2020 – 2023. Research has shown that digital platforms are not enforcing their community guidelines, leading to an enforcement gap that allows false, misleading and harmful content to flourish. A.

spread false content and posted videos on a variety of digital platforms, which reached large numbers and functioned as a call-to-action for supporters.²⁶

Wider crises in the provision of critical public services in Ireland are also key to understanding the rise of anti-immigrant views. Although the majority of Irish people have traditionally had positive attitudes towards immigration,²⁷ fundamental issues such as poverty and homelessness are exploited to ignite movements of intolerance, relying on a sense of scarcity of resources to sow division and hate. Far-right messaging creates a sense of panic about the impacts of population increases on overstretched services, resulting in an increasingly polarised society.²⁸ Brexit²⁹ and the Covid-19 pandemic³⁰ have also had troubling impacts on the levels of hatred and intolerance in Ireland. All of these phenomena serve to highlight the indivisibility of human rights and the importance of protecting economic, social and cultural rights to prevent and respond to intolerance, including through community development work.³¹

Gallagher, C. O'Connor, F. Visser, [Uisce Faoi Thalamh: An Investigation Into the Online Mis- and Disinformation Ecosystem in Ireland – Summary Report](#) (2023), p. 5.

²⁶ Live-streaming of rioting created a magnet effect, drawing in a wider range of actors, including those not typically involved in far-right networks but seeking to engage in looting and street conflict. Hope and Courage Collective, [Timeline and Brief Analysis of Dublin Riot](#) (2023).

²⁷ Recent research from the Economic and Social Research Institute has found that although positive attitudes towards migration declined between June and November 2023, there remains significant support for immigration in Ireland, and support is higher than other countries in Europe. ESRI, [Attitudes towards immigration and refugees in Ireland](#) (2023), p. 87. This finding is reflected in surveys undertaken by the Commission and the State; in 2022, 89% of respondents to IHREC's annual poll agreed that people should be treated equally regardless of where they are from, while in 2023, 76% of respondents to a State-issued survey believed that Ireland should help asylum seekers. IHREC, [Robust support for refugees continues says new national survey on international human rights day](#) (2022); DCEDIY, [Survey on People in Ireland's attitude towards diversity](#) (2023), p. 17.

²⁸ Joint Committee on Children, Equality, Disability, Integration and Youth, [Report on Refugees and Integration](#) (2023), p. 56.

²⁹ In a poll conducted by the Commission in 2023, many respondents expressed a belief that Brexit had led to a rise in far-right sentiment in Ireland and increased prejudice towards ethnic minorities. IHREC, [81% believe that everyone on the island of Ireland should have the same level of human rights and equality protections](#) (2023).

³⁰ Following the onset of the Covid-19 pandemic, there was a documented rise in anti-Asian racism. Irish Network Against Racism, [Reports of Racism in Ireland 2021](#) (2022), p. 7. Covid-19 has also increased the use of technology, and made it difficult to facilitate public meetings and face-to-face conversations, which are effective ways to challenge community concerns and address misinformation. Joint Committee on Children, Equality, Disability, Integration and Youth, [Report on Refugees and Integration](#) (2023), p. 54.

³¹ IHREC, [Ireland and the International Covenant on Economic, Social and Cultural Rights](#) (2024); Joint Committee on Children, Equality, Disability, Integration and Youth, [Report on Refugees and Integration](#) (2023), p. 54.

The impacts of these developments can also be seen at the individual level. Although racism, homophobia and other forms of overt discrimination are under-reported,³² data from An Garda Síochána and civil society shows that hate incidents are rising, and becoming normalised for certain communities.³³ For those belonging to ethnic minority, Traveller, Roma, LGBTI+ and other groups, experiences of abuse and intolerance combine with structural discrimination in access to employment and services, and make it increasingly challenging to fulfil basic needs and live in dignity. The extent of the intolerance faced is also significantly shaped and compounded by intersectional identities, including due to the prevalence of ableism in Irish society.³⁴

Education and public awareness are essential tools in the struggle against hatred and intolerance.³⁵ We have previously highlighted the need for educational curricula to proactively address identity-based bullying and micro-aggressions,³⁶ and centre the history and culture of ethnic minorities such as Travellers, Roma, and people of African descent.³⁷ Community education to ensure media literacy and critical evaluation is also essential.³⁸ Media institutions and journalists have a particular responsibility in how they frame narratives involving international and temporary protection applicants, ethnic minorities, Travellers, Roma and LGBTI+ groups. While it is important to ensure balanced reporting and protect freedom of expression, this should not be confused with an obligation to

³² The Irish Network Against Racism found that in 2022, only 1 in 5 hate crime reports they received were also reported to An Garda Síochána: [Reports of Racism in Ireland 2022](#) (2023), p. 7. ECRI has recommended that States develop frameworks for dialogue and co-operation between law enforcement agencies and members of Black communities and people of African descent as well as other minority groups, and encourage them to come forward and report hate incidents in order to tackle any underreporting. ECRI, [Racism and discrimination against black persons/people of African descent: Factsheet](#) (2024), p. 10.

³³ See the section in this submission on 'Hate speech and hate-motivated violence'.

³⁴ For example, a 2023 national poll carried out by the Commission found that less than 1 in 3 people (30%) agree that disabled people are treated fairly in Irish society. It also demonstrated a high level of agreement from respondents that disabled people continue to face barriers in society, with only 28% of people agreeing that disabled people can access the services they need. See IHREC, [Just 1 in 5 Agree that Government is doing enough to support Disabled People](#) (2023).

³⁵ ECRI, [Preventing and combating racism and intolerance in and through education: Factsheet](#) (2024); ECRI, [Integration and inclusion of migrants](#) (2024), p. 10.

³⁶ IHREC, [Submission to the Public consultation on the Draft Junior Cycle SPHE Short Course Curriculum Specification](#) (2022), pp. 6-7.

³⁷ IHREC, [Ireland and the Rights of the Child](#) (2022), pp. 86-87.

³⁸ Joint Committee on Children, Equality, Disability, Integration and Youth, [Report on Refugees and Integration](#) (2023), p. 57.

platform hateful and intolerant views.³⁹ Oversight and guidance by Coimisiún na Meán and the Online Safety Commissioner is critical in this regard.

The Commission recommends that the State updates school and community education curricula, creates public awareness campaigns, and introduces ethical reporting guidelines through Coimisiún na Meán, to proactively address biases which can lead to hatred and intolerance.

Countering hateful narratives and misinformation is especially vital in times of political uncertainty. We have seen many countries in Europe and further afield succumb to populism, unilateralism, racism, and an increasingly narrow and inward-looking vision of statehood, sovereignty, and national belonging. In light of the recent registration of a number of far-right parties,⁴⁰ the State must adopt a strong leadership role in protecting the integrity of election campaigns in the coming years, including by incorporating learnings from the recent Local and European elections.⁴¹ Given the evidence that far-right activity has directly influenced government policies in the area of immigration,⁴² political parties must redouble their efforts to avoid being 'baited' into adopting far-right policy positions and should refuse to make concessions which appease these groups.⁴³ Public and private sector regulation of election-related misinformation, disinformation and conspiracy,⁴⁴ as

³⁹ Joint Committee on Children, Equality, Disability, Integration and Youth, [Report on Refugees and Integration](#) (2023), pp. 53-54. For example, we note that Coimisiún na Meán has issued guidelines in respect of coverage of elections, however these guidelines do not make reference to the possibility of incitement to violence and hate speech during campaign debates: [Guidelines in Respect of Coverage of Elections](#) (2024).

⁴⁰ Three new far-right parties registered with the Electoral Commission in advance of the Local and European elections. Electoral Commission, [Register of Political Parties 5 April 2024](#) (2024).

⁴¹ Following a record number of far-right candidates on the ballots, they are set to make small gains in some areas and are countering losses with false claims of electoral fraud. See C. Gallagher, [Far-right candidates spread baseless claims of election fraud](#) (The Irish Times, 9 June 2024). Migrant candidates have topped polls around Ireland and an increased number of candidates with diverse backgrounds are set to be elected, demonstrating the importance of State support of democratic inclusion and the safe political participation of such communities in advance of the next elections.

⁴² Following protests in Carlow and Mayo, the State reversed plans to accommodate male asylum seekers, housing families at these locations instead. S. Hurley, [Govt immigration policy appears to buckle under pressure](#) (January 2024).

⁴³ We have seen recent examples of politicians making immediate statements in reaction to events in their community, resulting in ill-informed responses which escalate tensions further. Hope and Courage Collective, [Greater Than Fear: A community based response to tackling hate and extremism](#) (2023), p. 46; Hope and Courage Collective, [Current far-right tactics](#) (2023).

⁴⁴ See the section in this submission on 'Hate speech and hate-motivated violence, and the commentary on the publication of the updated draft Online Safety Code in May 2024. We also note the State's commitment

well as strict enforcement of community guidelines on political and other fundraising, will be critical safeguards to limit the spread of hateful ideas.⁴⁵

The Commission recommends that the Department of the Taoiseach develops and implements an action plan to prevent the spread of hate and intolerance in election campaigns, which recognises the role of the Electoral Commission, Coimisiún na Meán, the Standards in Public Office Commission, mainstream political parties, digital platforms and community development organisations.

The Commission recommends that the State directs funding to community development organisations working to combat hate and extremism at the local level.

to publish a National Counter Disinformation Strategy by the end of Quarter 2, 2024: Department of Culture, Heritage and the Gaeltacht, [Departmental Strategies](#) (April 2024).

⁴⁵ Standards in Public Office, [Guidelines for political parties: Steps to be taken concerning donations and prohibited donations](#) (2023). Recent research demonstrates that online fundraising platforms are not adequately moderating their sites, meaning that fundraising to drive hate and extremist movements have been facilitated online, even where such activity contravenes the platform's community guidelines. A. Gallagher, C. O'Connor, F. Visser, [Uisce Faoi Thalamh: An Investigation Into the Online Mis- and Disinformation Ecosystem in Ireland – Platform Analysis](#) (2023), pp. 50-53.

Effective equality and access to rights

During its visit to Ireland, ECRI should:

- › Engage with the State about its recommendation that national equality bodies are provided with sufficient resources, including additional funding to deliver new mandates, and seek an update on the transposition of the new EU Standards for Equality Bodies.
- › Prioritise legislative reform to strengthen equality protections, including public and private sector obligations, and request a concrete timeline from the State for completion of the *Equality Acts* review.
- › Follow-up with the State about the development and concrete implementation of National Equality Strategies, including the forthcoming *Equality Data Strategy*, and the need for adequate budgetary allocation, coordination, and independent monitoring and evaluation.

The extent of inequality, racism and intolerance in Ireland necessitates a robust institutional framework, to ensure anti-discrimination measures and rights protections are mainstreamed across State legislation, policy and practice. However, the promotion of equality continues to be impeded by limits in resource allocation, delays in legislation reform, gaps in national policy across a range of areas, and implementation failures.

Equality institutions

As outlined in General Policy Recommendation No. 2, national equality bodies require adequate financial and staff resourcing to fully discharge their functions.⁴⁶ Since ECRI's last visit, the Commission has a significantly expanded mandate⁴⁷ and there have been rising costs associated with inflation in Ireland.⁴⁸ The recently approved EU Directives on

⁴⁶ Council of Europe, [ECRI General Policy Recommendation No. 2: Equality Bodies to Combat Racism and Intolerance at National Level](#) (2017), para. 28.

⁴⁷ See the introduction to this report. In 2017, IHREC had a budgetary allocation of 6.5 million euros and an approved staffing level of 47 posts: Council of Europe, [ECRI Report on Ireland \(Fifth Monitoring Cycle\)](#) (2019), para. 20. IHREC has been allocated approximately €8.4m for 2024: Department of Public Expenditure, NDP Delivery and Reform, [Revised Estimates for Public Services 2024](#) (2024), p. 14. As of 31 December 2022, the staff complement at the Commission was 85 people: IHREC, [Annual Report 2022](#) (2023), p. 111.

⁴⁸ For example, the price of goods and services in Ireland has increased 20.3% from April 2017 to April 2024: CSO, [CPI Inflation Calculator](#).

Standards for Equality Bodies⁴⁹ have introduced a legal requirement on Member States to provide multi-mandate bodies with adequate human, technical and financial resources to perform their tasks and competencies effectively. Such budgetary allocation should be stable and include multi-annual planning, to facilitate the covering of costs that can be difficult to anticipate.⁵⁰ EQUINET has established that the allocation of a new mandate to an equality body, without adequate additional resources, should be an indicator to measure compliance with these standards.⁵¹

The Commission recommends that the State, as part of its transposition of the new EU Directives on Standards for Equality Bodies, engages in multi-annual budgetary planning and allocation at a level that ensures the effective discharge of all of IHREC's statutory functions, and that new mandates are accompanied by adequate and costed funding.

Equality legislation

Irish equality legislation does not currently provide adequate equal protection or non-discrimination guarantees to address widespread inequalities within the State.⁵² While we welcomed the Government's commitment to review the Equality Acts,⁵³ including their functioning and effectiveness in practice⁵⁴ and the grounds for discrimination,⁵⁵ there are

⁴⁹ On 7 May 2024, the Council of the European Union formally adopted the EU Directives on Standards for Equality Bodies. Member States will have two years to adapt their national legislation to the provisions of the Directives, which lay down standards for equality bodies to ensure that people enjoy a common minimum level of protection against discrimination. The Directives cover the mandate, independence, resources, tasks and powers of equality bodies to (1) engage in the prevention of discrimination and awareness raising activities and (2) deal with cases of discrimination/assist victims. See Council of the European Union, [Strengthening the role of equality bodies across the EU: Council adopts two directives](#) (2024).

⁵⁰ European Commission, [Proposal for a Directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation](#) (2022).

⁵¹ Equinet, [Equinet's self-assessment indicators for measuring standards for equality bodies](#) (2023).

⁵² IHREC, [Submission on the Review of the Equality Acts](#) (2023).

⁵³ In June 2021, the Minister for Children, Equality, Disability, Integration and Youth announced a review of the Equality Acts, including the *Equal Status Acts 2000-2018* and the *Employment Equality Acts 1998-2015*. A full list of legislation within the scope of the review can be found at Government of Ireland, [Consultation on the Review of the Equality Acts](#) (2021).

⁵⁴ Our work providing legal assistance in discrimination cases identifies a number of practical issues with the operation of the Acts, including strict time limits, inaccessible complaints forms and burdensome notification requirements.

⁵⁵ The Programme for Government committed to reviewing the introduction of a socio-economic ground for discrimination and the amendment of the gender ground, as well as a review of current definitions for the other grounds, including disability. Government of Ireland, [Programme for Government](#) (2020), p. 77.

ongoing delays in bringing forward legislative proposals.⁵⁶ The finalisation of this review must be prioritised within the lifetime of the current Government.⁵⁷

Through our engagement with the review, we have called for legislative amendments to prohibit discrimination based on socio-economic status, informed by General Policy Recommendation No. 7.⁵⁸ Such legislative reform has been sought for more than two decades, and should be underpinned by indicators developed in consultation with structurally vulnerable groups and adopt an asymmetric approach.⁵⁹ We have also called for amendment of the *Equality Acts* to provide for intersectional discrimination, including to ensure compliance with Council of Europe⁶⁰ and United Nations standards.⁶¹

The Commission recommends that Irish equality law is amended to prohibit discrimination based on socio-economic status and intersectional discrimination as a matter of priority.

In line with General Policy Recommendation No. 7,⁶² the Irish Human Rights and Equality Commission Act 2014 imposes a legal obligation ('the Public Sector Duty') on public bodies to eliminate discrimination, promote equality, and protect human rights for their staff

⁵⁶ As of April 2024, the *Equality Acts Amendment Bill* is still under preparation. See Government of Ireland, [Summer Legislation Programme 2024](#), p. 9.

⁵⁷ As set out in the [Electoral Act 1963](#), Dáil Éireann cannot continue without dissolution for longer than 5 years since the date of its first meeting. This leaves the latest date for the next General Election, under Irish law, at March 2025.

⁵⁸ We note that ECRI has recommended for example that when adopting legal measures against discrimination, Member States might prohibit, alongside racial discrimination, other forms of discrimination such as... social origin. Council of Europe, [ECRI General Policy Recommendation No. 7: National Legislation to Combat Racism and Racial Discrimination](#) (2017), para. 4.

⁵⁹ An asymmetric approach limits the application of this ground to only those who are disadvantaged. We recognise the need to achieve sufficient clarity and precision in defining the ground in order to secure foreseeability and transparency, which is required in the law. IHREC, [Submission on the Review of the Equality Acts](#) (2023), pp. 50-57.

⁶⁰ ECRI has been using an intersectional approach in its country monitoring work, which highlights the specific vulnerabilities experienced by, for instance, Roma women, Black men and Muslim women, as well as in its new standards. See Council of Europe, [ECRI General Policy Recommendation No. 5 \(revised\) on preventing and combating anti-Muslim racism and discrimination](#) (2021), p. 23 and Council of Europe, [ECRI General Policy Recommendation No. 9 \(Revised\) on preventing and combating Antisemitism](#) (2021), p. 11.

⁶¹ The Committee on Economic, Social and Cultural Rights recommended in 2024 that Ireland adopt anti-discrimination legislation that includes definitions of direct, indirect, intersectional and multiple discrimination: [Concluding observations on the fourth periodic report of Ireland](#) (2024), para. 22(a)(ii). The Committee on the Elimination of Racial Discrimination has also expressed concern over the absence of intersectional and multiple forms of discrimination in Irish equality legislation: [Concluding observations on the combined fifth to ninth reports of Ireland](#), CERD/C/IRL/CO/5-9 (2020), para. 11(b).

⁶² Council of Europe, [ECRI General Policy Recommendation No. 7: National Legislation to Combat Racism and Racial Discrimination](#) (2017), para. 9.

and in their delivery of services.⁶³ The Committee on the Rights of the Child recently called on Ireland to enhance accountability in public procurement by ensuring that non-State actors delivering goods and services comply with the Duty.⁶⁴ We have also recommended legislative reform to expand the scope of the Duty to include schools and other educational establishments,⁶⁵ as well as the introduction of a Private Sector Duty to ensure equality measures are uniformly applied across the private sector.⁶⁶

The Commission recommends that the scope and enforcement of the Public Sector Duty is strengthened through legislative reform, as well as the introduction of positive equality duties for the private sector.

Equality strategies

We welcome the publication of the National Action Plan Against Racism 2023-2027, but the lack of specificity on the timelines, funding and responsible body for priority actions limits transparency and accountability for implementation in practice.⁶⁷ Despite ongoing discrimination and intolerance on the grounds of race, ethnicity, sexual orientation and gender identity, there continues to be significant gaps in the national policy framework and delays in the introduction of new State commitments. For example, following the expiry of

⁶³ The Public Sector Duty requires public bodies to undertake an assessment of the equality and human rights issues pertaining to their purpose and functions; to devise an action plan to address the issues raised in the assessment; and to report annually on progress and achievements with regard to identified actions. To fulfil this requirement, the Commission guidance recommends that public bodies consult with staff and service users, including those from minority groups, to identify issues and actions and monitor progress. Further information and guidance on the Duty can be found at: <http://www.ihrec.ie/our-work/publicsector-duty>.

⁶⁴ Committee on the Rights of the Child, [Concluding observations on the combined fifth and sixth periodic reports of Ireland](#) (2023), para 13. In November 2023, the Committee on the Elimination of Discrimination Against Women also asked Ireland to provide information on 'legislative and administrative measures the State party will adopt to progress the full and effective application of the Public Sector Duty': [List of issues and questions prior to the submission of the eighth periodic report of Ireland](#) (3 November 2023), para 5.

⁶⁵ IHREC, [Submission on the Review of the Equality Acts](#) (2023), p. 18.

⁶⁶ IHREC, [Submission on the Review of the Equality Acts](#) (2023), pp. 72-23.

⁶⁷ Department of Children, Equality, Disability, Integration and Youth, [Minister Joe O'Brien announces publication of Ireland's National Action Plan Against Racism 2023-2027](#) (2023). For our observations on NAPAR, see IHREC, [Accountability needed from State to Combat Racism](#) (2023).

the previous frameworks, successor strategies on migrants,⁶⁸ Travellers and Roma,⁶⁹ and LGBTI+ people⁷⁰ remain outstanding.

Significant structural changes are required in Ireland's development, implementation and monitoring of national equality strategies. Overall, the core issue is the policy implementation record, and the failure to adequately resource implementation partners such as civil society and community development organisations.

There must be a priority focus on ensuring:

- better alignment with EU and international standards;
- an evidence-based and collaborative approach;
- human rights and equality proofing under the Public Sector Duty;
- the incorporation of a regional and local lens;
- coherence across overlapping frameworks;
- the participation of civil society;
- institutional and structural reform rather than standalone and pilot projects;
- future-proofing;
- all-island considerations; and
- the public provision of services.

⁶⁸ A public consultation on the successor *Migrant Integration Strategy* launched in October 2023, and closed in November 2023. The current plans are to publish a successor strategy in early 2025: Department of Children, Equality, Disability, Integration and Youth, [International Protection](#) (January 2024).

⁶⁹ Work on the development of the successor *National Traveller and Roma Inclusion Strategy* is ongoing, including in consultation with Traveller and Roma groups. The State intends to launch the successor Strategy in the coming months: Department of Children, Equality, Disability, Integration and Youth, [Written Answers](#) (April 2024).

⁷⁰ The final report of the review of the previous *National LGBTI+ Inclusion Strategy* was due to be published in Quarter 1, 2024. The successor Strategy is due to be published by the end of 2024. See also, the section in this submission on 'LGBTI+ equality'.

This aligns with the recent assessment of the Committee on Economic, Social and Cultural Rights,⁷¹ as well as a State-commissioned report on the implementation of national equality strategies.⁷²

The Commission recommends that the State develops a robust framework of national equality strategies targeting specific groups and addressing intersectionality. The framework should be based on IHREC recommendations, the commentary of Council of Europe and UN Committees, evaluation outcomes, and resourced civil society and community partnerships.

As underscored by ECRI, accurate and comparable equality data is essential in understanding the nature and extent of discrimination and intolerance in Ireland, and in enabling evidence-informed policy-making and service provision.⁷³ We have repeatedly highlighted the shortfalls in equality data in Ireland,⁷⁴ including the difficulties in measuring outcomes for minority ethnic groups,⁷⁵ the impact of State policies and schemes, and the overall extent to which the State is meeting its human rights commitments.⁷⁶ We welcome the State's development of an Equality Data Strategy,⁷⁷ and related commitments to

⁷¹ In 2024, CESCR recommended that Ireland ensure all equality strategies, policies and programmes to combat discrimination faced by disadvantaged and marginalized individuals and groups are developed in partnership with those individuals and groups and receive sufficient financial, human and technical resources, including through the effective application of the Public Sector Equality and Human Rights Duty. It also recommended that their implementation is regularly monitored and evaluated by ensuring oversight by the relevant social partners: [Concluding observations on the fourth periodic report of Ireland](#) (2024), para. 23(c).

⁷² This commissioned report evaluated the effectiveness of the processes for implementation of three equality strategies - the Migrant Integration Strategy, the National Strategy for Women and Girls, and the National Traveller and Roma Inclusion Strategy. Common issues identified include: inadequate implementation structures; a lack of Departmental ownership over assigned actions; and the need for greater financial resources and administrative support. Centre for Effective Studies, [Realising the promise of national equality policy: An evaluation of the processes of implementation of three national equality strategies](#) (2023).

⁷³ The importance of data collection has been repeatedly highlighted by ECRI in a number of policy recommendations. See for example, [ECRI General Policy Recommendation No. 1 on combating racism, xenophobia, antisemitism and intolerance](#) (1996), p. 6 and [ECRI General Policy Recommendation No. 2. on equality bodies to combat racism and intolerance at national level](#) (2017), para. 58.

⁷⁴ See for example, IHREC, [Ireland and the Convention on the Rights of the Child](#) (2022) and IHREC, [Ireland and the International Covenant on Economic, Social and Cultural Rights](#) (2024).

⁷⁵ While NAPAR contains an action on introducing a standardised ethnic classification across administrative systems, State agencies and surveys, the implementing bodies are indicative and the target completion date is by the end of 2025. Government of Ireland, [National Action Plan Against Racism](#) (2023), pp. 26-27.

⁷⁶ For recent UN commentary, see CESCR, [Concluding observations on the fourth periodic report of Ireland](#) (2024), paras. 18-19.

⁷⁷ It is anticipated that the *Equality Data Strategy* will be published in Summer 2024.

identify gaps in equality data, provide guidance on how to fill those gaps, develop standard practices in the classification of data, and build an Equality Data Hub.⁷⁸ We also note existing efforts to map equality data through an Equality Data Audit.⁷⁹

The Commission recommends that the State prioritises the publication, promotion and implementation of the forthcoming National Equality Data Strategy, including through the adequate resourcing of Government Departments and public bodies to deliver on its strategic approach and actions.

⁷⁸ Led by the Department of Children, Equality, Disability, Integration and Youth in partnership with the Central Statistics Office, the overall goal of the proposed Strategy for the period of 2023-2027 is to improve the collection, disaggregation and use of equality data. The approach will focus on collection, standards and classifications, use, and monitoring and oversight. As part of the Strategy, an Equality Data Hub will be developed which will act as a central point for access to relevant data. See: Department of Children, Equality, Disability, Integration and Youth, [Minister O’Gorman announces the development of a National Equality Data Strategy](#) (2022).

⁷⁹ Central Statistics Office, [Equality Data Audit](#) (2020).

LGBTI+ equality

During its visit to Ireland, ECRI should:

- › Engage in a dialogue with the State about its response to the prevalence of discrimination and violence against LGBTI+ people, including finalisation of the successor National LGBTI+ Inclusion Strategy 2019-2021 and addressing the gaps in equality legislation.
- › Request information on the State's implementation of recommendations in the 'National Study on the Mental Health and Wellbeing of the LGBTQI+ Communities in Ireland'.
- › Seek an update on measures to reduce lengthy waiting times for gender-affirming healthcare and the progress in introducing a new national clinical programme.
- › Promote gender recognition legislative reform to safeguard children's right to identity, including for children under the age of 16 years.

Navigating the threat of violence, discrimination and harassment is part of everyday life for LGBTI+ people in Ireland, with evidence of rising anti-LGBTI+ prejudice and intolerance in recent years.⁸⁰ According to a 2023 survey, 60% of respondents reported an increase in violence against LGBTI+ people in Ireland, and only 40% felt that the Irish Government effectively combats prejudice and intolerance, compared to 67% in 2019.⁸¹ Similar trends are captured in International Lesbian, Gay, Bisexual, Trans, and Intersex Association's ('ILGA') recent Rainbow Europe Map, with Ireland continuing to perform low across key policy and legislative domains such as equality and non-discrimination (37.96%), hate crime and legislation (36.79%), and asylum (33.33%).⁸² Overall, Ireland's ranking has only improved marginally from 52% in 2018 to 54.67% in 2023.⁸³

⁸⁰ In 2024, the Fundamental Rights Agency ('FRA') published the results of its third survey on the experiences of LGBTIQ people in the EU and neighbouring countries, conducted in 2023. Over 100,000 people aged 15 years and above responded. While the report notes that LGBTIQ people feel able to be open about their identities, the discrimination they face remains high, with 'more violence, harassment and bullying' than before. See FRA, [LGBTIQ at a crossroads: progress and challenges](#) (2024). For data specific to Ireland, see FRA, [EU LGBTIQ survey III: Country Data - Ireland](#) (2024).

⁸¹ FRA, [EU LGBTIQ survey III: Country Data - Ireland](#) (2024).

⁸² Rainbow Europe, [ILGA Europe: Country Ranking](#) (2024).

⁸³ Rainbow Europe, [ILGA Europe: Country Ranking](#) (2024).

Stagnation in advancing LGBTI+ equality can be acutely seen in Ireland's defunct policy infrastructure, including due to the expired National LGBTI+ Inclusion Strategy 2019-2021 and the persistent delays in developing a successor framework as noted above.⁸⁴ As outlined in LGBT Ireland's 2024 review of the impact of the former Strategy, renewed efforts are urgently needed to strengthen and protect LGBTI+ equality in a range of areas, including: access to health care, gender recognition, and the right to participate in public life, including the need to tackle heteronormative assumptions and foster safe public spaces for LGBTI+ people.⁸⁵ There are also gaps in legislative protections, as the Equality Acts do not explicitly prohibit discrimination against transgender, non-binary and intersex people.⁸⁶ In line with ECRI's 2019 recommendation,⁸⁷ we continue to call for better data collection to capture the size, needs and experiences of the LGBTI+ population in Ireland,⁸⁸ and to support effective policy and legislative design, development, implementation and review.⁸⁹

⁸⁴ For more information, see the 'Equality Infrastructure' section in this submission. *The LGBTI+ Inclusion Strategy 2019-2021* was extended and concluded in June 2023. While the successor Strategy is due to be published by the end of 2024 and will incorporate the former *LGBTI+ National Youth Strategy 2018-2020*, we remain concerned by the State's track record in meeting these deadlines, and note for instance ongoing delay in publishing the final report of the previous LGBTI+ Inclusion Strategy. In May 2024, the Department launched a consultation process to inform the development of the successor strategy. According to the Department, the consultation process will include a number of regional consultations for persons aged 18 years and older, as well as a separate consultation process for children and young people. Department of Children, Equality, Disability, Integration and Youth, [Consultations for the National LGBTI+ Inclusion Strategy](#) (2024).

⁸⁵ LGBT Ireland, [Progress Made, Renewed Efforts Required: A Shadow Report of Ireland's First National LGBTI+ Inclusion Strategy](#) (2024).

⁸⁶ As part of the ongoing review of the legislation, referenced in the section on 'Effective equality and access to rights' above, we have recommended that the gender ground in the Equality Acts be amended to include explicit reference to, and define gender identity, gender expression, and sex characteristics. IHREC, [Submission on the Review of the Equality Acts](#) (2023), pp. 57-61.

⁸⁷ Council of Europe, [ECRI Report on Ireland \(fifth monitoring cycle\)](#) (2019), para. 119.

⁸⁸ As noted by ECRI during their 2019 assessment, the size of the LGBTI+ population in Ireland remains unknown: [ECRI Report on Ireland \(fifth monitoring cycle\)](#) (2019), para. 118. The recent 2022 Census failed to include specific questions on gender identity and sexual orientation, despite a policy commitment in the *National LGBTI+ Inclusion Strategy*. In January 2023, the Central Statistics Office finalised a public consultation on the content for the next Census in 2027, and it is considering questions that capture sexual orientation, gender identity, and sex characteristics. See CSO, [Pulse Survey Questions FAQ](#); CSO, [Census 2027 Public Consultation](#) (2023).

⁸⁹ Council of Europe, [ECRI Report on Ireland \(fifth monitoring cycle\)](#) (2019), para. 119.

The Commission recommends that the State adopts policy, legislative and data collection measures to monitor and effectively combat discrimination and intolerance against LGBTI+ people, promote equality, and ensure access to effective legal remedies.

Mental health

Recent research highlights a stark decline in the mental health of LGBTI+ people, with participants reporting a 17% increase in symptoms of severe depression, 30% increase in symptoms of severe anxiety, and 33% increase in symptoms of stress.⁹⁰ Mental health issues are even greater amongst specific cohorts, including younger people, transgender, and gender non-conforming people.⁹¹ While the 2024 study denotes some positive changes in public attitudes towards LGBTI+ people, attitudes towards transgender and intersex communities have notably deteriorated.⁹² Poor mental health experiences are further exacerbated by longstanding issues in the availability and accessibility of quality mental health services in Ireland,⁹³ including long waiting times and the prohibitive costs of private care.⁹⁴ We are also concerned about the intersectional inequalities experienced within ethnic minority communities in Ireland. According to a 2022 report, LGBTI+ Traveller and Roma experience serious mental health issues and are disproportionately affected by homelessness, with over 82% of respondents having experienced depression, and 60% having experienced suicidal thoughts.⁹⁵

⁹⁰ Belong To, [New research report highlights stark deterioration in mental health of LGBTQI+ people since 2016](#) (2024). For the full report, see: A. Higgins, C. Downes, K. O'Sullivan, J. DeVries, R. Molloy, M. Monahan, B. Keogh, L. Doyle, T. Begley and P. Corcoran, [Being LGBTQI+ in Ireland 2024: the National Study on the Mental Health and Wellbeing of the LGBTQI+ Communities in Ireland](#) (Dublin: Belong To – LGBTQ+ Youth Ireland, 2024).

⁹¹ According to the report, 72% of respondents aged 14-18 and 75% of transgender and gender non-conforming people reported having self-harmed. Belong To, [New research report highlights stark deterioration in mental health of LGBTQI+ people since 2016](#) (2024).

⁹² Belong To, [New research report highlights stark deterioration in mental health of LGBTQI+ people since 2016](#) (2024).

⁹³ 60% of respondents had sought professional help in the last 5 years, with many noting barriers to accessing the requisite supports. Belong To, [New research report highlights stark deterioration in mental health of LGBTQI+ people since 2016](#) (2024).

⁹⁴ A. Higgins, C. Downes, K. O'Sullivan, J. DeVries, R. Molloy, M. Monahan, B. Keogh, L. Doyle, T. Begley and P. Corcoran, [Being LGBTQI+ in Ireland 2024: the National Study on the Mental Health and Wellbeing of the LGBTQI+ Communities in Ireland](#) (Dublin: Belong To – LGBTQ+ Youth Ireland, 2024), p. 151.

⁹⁵ S. Sartori, [Unveiling Inequality - Experiences of LGBTI+ Travellers & Roma](#) (2022), p. 45.

The Commission recommends that the State includes priority and intersectional targets and indicators on improving the mental health of LGBTI+ people across all relevant national equality and health strategies, accompanied by investment in specifically tailored, accessible, affordable and quality community mental health services.

Access to healthcare for transgender people

We have repeatedly stressed that the failure to provide universal, affordable, gender-affirming care for transgender people is a violation of the right to health.⁹⁶ In this context, we are concerned about long waiting lists for gender-affirming care for adults,⁹⁷ and the total absence of services for children and young people since direct referrals to an English service provider halted in 2022.⁹⁸ Civil society organisations have repeatedly criticised the State for its failure to progress trans health-related targets and commitments, including those contained within the previous LGBTI+ Inclusion Strategy 2019-2021.⁹⁹ A lack of timely access to gender affirmation services can create mental health issues, due to the

⁹⁶ As asserted by ECRI, some segments of the LGBTI+ community may have specific medical needs, such as access to hormonal therapy and gender reassignment surgeries, as well as specific rights, such as the right to legal gender recognition and the right to physical and bodily autonomy, the denial or deprivation of which may constitute discrimination. Council of Europe, [ECRI: Factsheet on LGBTI Issues](#) (2021), para. 23; See also: United Nations Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity, [Ensuring healthy lives for all, leaving no-one behind](#) (2023), p. 1. More recently, UN Treaty Monitoring bodies have recommended that Ireland strengthen its measures to eliminate discrimination against equality groups, including transgender persons, and ensure their access to healthcare services. See Committee on the Rights of the Child, [Concluding observations on the combined fifth and sixth periodic reports of Ireland](#) (2023), para. 15(d); Committee on Economic, Social and Cultural Rights, [Concluding observations on the fourth periodic report of Ireland](#) (2024), para. 23(b).

⁹⁷ As of May 2024, the waiting list for an initial appointment following referral was three and a half years. National Gender Service, [Waiting Times](#).

⁹⁸ While the HSE had a referral pathway to the Tavistock Clinic in London, the clinic stopped accepting direct referrals in November 2022 and has since closed as of March 2024, resulting in the collapse of gender-affirming healthcare services for children and young people in Ireland. See HSE, [Review of the implications of the Cass Report for the provision of Gender Identity Services for children and young people in Ireland](#) (2023), pp. 8-9. See also Belong To, [Leading Youth work organisations & youth workers call for action on healthcare crisis for trans and non-binary young people](#) (2022); Ombudsman for Children's Office, [Healthcare supports for transgender children: A children's rights perspective from the Ombudsman for Children's Office](#) (2023).

⁹⁹ Ireland scored an 'F' for its failure to 'ensure that people wishing to transition their gender have timely access to treatment that accords with international best practice.' See LGBT Ireland, [Progress Made, Renewed Efforts Required: A Shadow Report of Ireland's First National LGBTI+ Inclusion Strategy](#) (2024), pp. 8-9.

added stress of waiting lists, not-fit-for-service gender clinics, transphobia, and delayed intervention.¹⁰⁰

The Health Service Executive has recently committed to developing a new clinical programme for gender healthcare for children, young people and adults within the next two years, to be informed by emerging and evolving international evidence, including the 2024 'Cass' report in the UK.¹⁰¹ While such a commitment is welcome, the development of services must prioritise a human rights-based approach and partnership with the transgender community, and avoid perpetuating toxic narratives, the 'instrumentalisation of prejudice', and pathologising approaches.¹⁰²

The Commission recommends that the Department of Health and the Health Service Executive develop and adequately resource rights-based, evidence-based gender-affirming healthcare for transgender children, young people and adults, as a matter of urgency.

¹⁰⁰ National Women's Council, [Gender-Sensitive Mental Health: Developing Policy and Services Which Meet the Particular Needs of Women and Girls](#) (2023), p. 59.

¹⁰¹ Houses of the Oireachtas, [Gender Recognition Dáil Éireann Debate, Wednesday - 1 May 2024](#) (2024) and Cass Review, [Independent review of gender identity services for children and young people: Final report](#) (2024). For commentary on the Cass report, including its failure to incorporate human rights language, as well as concerns about related efforts to spread 'disinformation and myths about healthcare for trans young people', see OHCHR, [UK: Implementation of 'Cass report' key to protecting girls from serious harm, says UN expert](#) (2024); Amnesty International, [UK: Cass review on gender identity is being 'weaponised' by anti-trans groups](#) (2024); and Transgender Equality Network Ireland (TENI), [Statement on Cass Review into Gender Identity Services for Children and Young People](#) (2024).

¹⁰² Human Rights Council, [Visit to the United Kingdom of Great Britain and Northern Ireland: Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz](#) (April 2024).

Gender recognition

Ireland's legislative framework fails to adequately protect a child's right to identity,¹⁰³ as reflected in the low numbers of gender recognition certificates granted to children aged 16 and 17 since 2015.¹⁰⁴ In 2018, a Review¹⁰⁵ carried out under the Gender Recognition Act 2015 recommended that a 'system of gender recognition should be introduced for children of any age' subject to certain key principles.¹⁰⁶ We note that while the Government committed to introducing legislation to allow for a self-declaration model for children aged 16 and 17 in 2020, this has not been progressed.¹⁰⁷ Furthermore, no specific plans have been announced to extend gender recognition arrangements to children under 16 years of age.¹⁰⁸ The Committee on the Rights of the Child has recently repeated its call for Ireland to progress legislative reform to simplify the procedure for gender recognition for children aged 16 and 17. It also recommended that research examining gender recognition for children under 16 years is informed by direct consultation with children and prioritises a rights-based reform of the system.¹⁰⁹

¹⁰³ Under the *Gender Recognition Act 2015*, an application may be made by a parent or guardian for a Gender Recognition Certificate for children aged 16 and 17 years, provided a court order has first been obtained, which also requires parental or guardian consent and certification by two medical practitioners: see Sections 8, 9 and 12 of the *Gender Recognition Act 2015*.

¹⁰⁴ Due to the absence of data, the number of transgender children in Ireland remains unclear. As noted above, research indicates that 10% of 17-18 year olds in Ireland identify as LGBTI+. According to the Department of Social Protection, 18 people aged 16 and 17 have been granted a Gender Recognition Certificate since 2015, compared with 1,185 people aged 18 and older. See Department of Social Protection, [Annual Report for 2022 under section 6 of the Gender Recognition Act 2015](#) (2021), p. 3.

¹⁰⁵ In 2017, a Review Group was established to review the operation of the 2015 Act (as provided for in section 7 of the Act). The Group included representation from the Transgender Equality Network of Ireland, independent experts in the field, and Government Departments/bodies (Employment Affairs and Social Protection, Children and Youth Affairs, Justice and Equality, Education and Science, Foreign Affairs and Trade, and the HSE). See Minister for Employment Affairs and Social Protection, [Report on the Review of the Gender Recognition Act](#) (2019), p. 3.

¹⁰⁶ Key principles include: the requirement for parental consent (with an appropriate legal process to address cases where there is not consent from both parents, or it is not possible or safe to obtain same); administrative process; straightforward revocation process; and third party support for the child and family involved. See Minister for Employment Affairs and Social Protection, [Report on the Review of the Gender Recognition Act, Nov 2019](#), p. 4.

¹⁰⁷ Department of the Taoiseach, [Programme for Government: Our Shared Future \(2020\)](#), p. 77. The most recent Legislation Programme in Summer 2024 makes no reference to any legislative proposals in this area. See Department of the Taoiseach, [Government Legislation Programme: Summer 2024](#) (2024).

¹⁰⁸ The Government has committed to undertaking research to examine the issues relating to gender recognition for children aged under 16 years. While the research contract was initially awarded in September 2022, we are not aware of any clear timeline for publication or finalisation. See Houses of the Oireachtas, [Gender Recognition Dáil Éireann Debate, Tuesday - 28 November 2023](#) (2023).

¹⁰⁹ Committee on the Rights of the Child, [Concluding observations on the combined fifth and sixth periodic reports of Ireland](#) (2023), para. 20(b-c).

The Commission recommends that the Department of Social Protection progresses legislative reform to introduce a self-declaration model for 16 and 17 year olds seeking gender recognition, and to enable applications to be made by a parent or guardian on behalf of children under the age of 16 years, subject to appropriate safeguards, and in line with children's rights principles.

Hate speech and hate-motivated violence

During its visit to Ireland, ECRI should:

- › Prioritise follow-up with the State about its repeated failure to adequately progress its recommendations on the introduction of new hate speech and hate crime legislation.
- › Engage in a dialogue with the State about the need for a robust online safety regulatory framework, and to ensure alignment across the *Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022* and the *Online Safety and Media Regulation Act 2022*.

As highlighted by ECRI in its 2022 follow-up procedure, there had been some encouraging steps taken by the Irish authorities with regard to drafting new hate speech and hate crime legislation and replacing the ineffective Prohibition of Incitement to Hatred Act 1989.¹¹⁰

However, progress has completely stalled and the legislative protections in place remain seriously inadequate.¹¹¹ This is particularly concerning given that the most recent statistics published by An Garda Síochána show there has been a 12% increase in hate crime and hate related incidents reported in Ireland between 2022 and 2023.¹¹² This marks the

¹¹⁰ ECRI, [Conclusions on the Implementation of the Recommendations in Respect of Ireland Subject to Interim Follow-up](#) (2022), p. 5. We note that ECRI has previously described the 1989 Act as 'seriously defective'.

¹¹¹ There are still no specific hate crime offences in Irish law at present and there is no law that requires a sentencing court to recognise and account for the 'hate' element of a crime that was motivated by prejudice. While sentencing practice allows for prejudice motivations to be taken into account by the sentencing court, the court is under no obligation to do so. The current legislative basis for addressing incitement to hatred continues to be the *Prohibition of Incitement to Hatred Act 1989*. The Commission has previously voiced concerns about the effectiveness of this legislation and its compliance with human rights and equality standards, as have international human rights and equality monitoring bodies. See, IHREC, [Submission on the General Scheme of the Criminal Justice \(Hate Crime\) Bill](#) (2022), pp. 4-5.

¹¹² Incidents were recorded across all nine of the protected grounds in Ireland. The most prevalent discriminatory motive was anti-race (36%), followed by anti-nationality (18%) and anti-sexual orientation

second year in a row that there has been an increase in the number of incidents reported.¹¹³ We note that low levels of reporting continues to be a significant issue, and that people with diverse and intersectional identities may be particularly underestimated in the data. For example, disabled people are frequently the targets of hate crime but such incidents remain ‘widely hidden and misunderstood’.¹¹⁴

The Department of Justice published the Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022¹¹⁵ in October 2022.¹¹⁶ In our interventions on the legislative proposals,¹¹⁷ we have made a number of recommendations, including the expansion of protected characteristics to align with the Equality Acts;¹¹⁸ alignment of the definition of hatred with international standards so that it is clear, precise and accessible;¹¹⁹ proportionate penalties;¹²⁰ and the inclusion of a statutory requirement to review the

(16%). These three motives have been the most common across the past three years; however, anti-nationality overtook anti-sexual orientation to become the second most prevalent motive in 2023. An Garda Síochána stated that although disappointing to see the increase in hate crime and hate related incidents, it was positive to see more victims coming forward to report their experiences: [2023 Hate Crime Data and Related Discriminatory Motives](#) (2024). 2023 data from an EU wide survey also reported that Ireland had the highest levels of racist violence at school against children of African descent: European Union Agency for Fundamental Rights, [Being Black in the EU: Experiences of People of African Descent](#) (2023), p. 56.

¹¹³ Statistics from An Garda Síochána show a 29% increase in hate crimes and incidents from 2021 to 2022: [2022 Hate Crime Data and Related Discriminatory Motives](#) (2023).

¹¹⁴ IHREC, [Submission on the General Scheme of the Criminal Justice \(Hate Crime\) Bill](#) (2022), p. 50.

¹¹⁵ Previously named the *General Scheme of the Criminal Justice (Hate) Crime Bill*.

¹¹⁶ Department of Justice, [New Bill to tackle hate crime and hate speech includes clear provision to protect freedom of expression](#) (27 October 2022). This legislation will transpose the requirements on hate speech under the European Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law. It therefore plays an important role in ensuring Ireland meets its international obligations relating to hate speech.

¹¹⁷ We made a submission to the Minister for Justice on the *General Scheme of the Criminal Justice (Hate Crime) Bill* which focuses on balancing the prohibition on discrimination and incitement to hatred with the right to freedom of expression, addressing hate-motivated offences, and policy measures to respond to hate crime and incitement to hatred. Following the publication of the *Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022*, we sent follow up correspondence to the Minister for Justice outlining issues we identified as outstanding in the legislation. See IHREC, [Submission on the General Scheme of the Criminal Justice \(Hate Crime\) Bill](#) (2022).

¹¹⁸ IHREC, [Submission on the General Scheme of the Criminal Justice \(Hate Crime\) Bill](#) (2022), pp. 32–34. The list of protected characteristics currently excludes civil status, family status, and age, and we have recommended that this list and their definitions are informed by the outcomes and recommendations of the review of the Equality Acts.

¹¹⁹ International standards such as those established by ECRI, the United Nations Rabat Plan of Action, and the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. See IHREC, [Submission on the General Scheme of the Criminal Justice \(Hate Crime\) Bill](#) (2022), pp. 28–30.

¹²⁰ In our follow up correspondence to the Minister for Justice, we made a recommendation that consideration is given to whether the proposed penalties are proportionate to the legitimate aim of the legislation, particularly as they exceed the penalties provided for under the Framework Decision. See also, IHREC, [Submission on the General Scheme of the Criminal Justice \(Hate Crime\) Bill](#) (2022), p. 29.

legislation.¹²¹ Despite the need for urgent action,¹²² the 2022 Bill passed all legislative stages in the Dáil (the Irish Parliament) but has failed to progress in the Seanad (the Irish Senate) since June 2023.¹²³

In the vacuum created by State inaction, the discourse on the legislative proposals on incitement to violence or hatred has intensified in Ireland, with increasing scrutiny and debate around the rights to free speech and freedom of expression, and divisive public¹²⁴ and political commentary.¹²⁵ While the Government has reiterated its commitment to pass the 2022 Bill before the next General Election,¹²⁶ increased leadership is required from public and political representatives to condemn hate speech and hate crimes in all their forms and progress the legislation as a matter of priority.¹²⁷ In finalising the proposals, legislators should seek guidance from international expert bodies, including the recommendations of ECRI,¹²⁸ the Human Rights Committee,¹²⁹ and the Committee on the Elimination of Racial Discrimination.¹³⁰

We have further underscored the need to improve the regulation of online hate speech and internet intermediaries, particularly in light of the rise of misinformation and disinformation

¹²¹ In our follow up correspondence to the Minister for Justice, we made a recommendation for a statutory requirement for an independent review of the legislation three years after commencement.

¹²² See the comments in this report on 'Racism, discrimination and intolerance in Ireland'.

¹²³ The Bill passed the five stages of the Dáil process and was passed on 26 April 2023. The Bill moved to the Seanad, passing the first two stages, but has remained at the third stage of the Seanad process since 21 June 2023: [Criminal Justice \(Incitement to Violence or Hatred and Hate Offences\) Bill 2022](#).

¹²⁴ For example, see the following media coverage: N. Horan, [Hate speech bill is 'restrictive and undemocratic' warns barrister, as 7,000 people sign petition](#) (January 2024); Euronews, [New hate speech laws kick up a storm in Ireland](#) (May 2023); and M. Hilliard, [Elon Musk pledges to fund any Irish legal challenges to hate speech legislation](#) (January 2024).

¹²⁵ For example, see C. McQuinn and J. White, [Bring hate speech legislation 'back to the drawing board,' says former minister for justice Charlie Flanagan](#) (March 2024). Despite voting for it in the Dáil, Sinn Féin, Ireland's largest opposition party, has since called for the Bill to be scrapped: [Government's Hate Speech legislation must be scrapped – Pa Daly TD](#) (March 2024).

¹²⁶ Which must be held by March 2025, as noted in the section on 'Effective equality and access to rights'.

¹²⁷ See also, [Coalition Against Hate Crime call on Government to ensure Hate Crime Bill is passed as a matter of urgency](#) (8 May 2024). The Coalition Against Hate Crime is a group of 23 civil society organisations which represent communities impacted by hate crime.

¹²⁸ ECRI, [ECRI Report on Ireland: Fifth Monitoring Cycle](#) (2019) and ECRI, [General Policy Recommendation No. 15 on Combating Hate Speech](#) (2015).

¹²⁹ Human Rights Committee, [Concluding observations on the fifth periodic report of Ireland](#) (2023), para 18.

¹³⁰ Committee on the Elimination of Racial Discrimination, [Concluding observations on the combined fifth to ninth reports of Ireland](#) (2020), paras 19-22. See also Library & Research Service, [Bill Digest: Criminal Justice \(Incitement to Violence or Hatred and Hate Offences\) Bill 2022](#) (2022), pp. 34-38.

as noted above,¹³¹ and providers' recommender systems.¹³² We welcome the enactment of the Online Safety and Media Regulation Act 2022¹³³ to regulate harmful online content, and stress the need for alignment between that Act and the proposed Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022 to ensure that there are no gaps in implementation of the law. Following the formal establishment of the new media regulator, Coimisiún na Meán and the appointment of Ireland's first Online Safety Commissioner,¹³⁴ an updated draft Online Safety Code for video-sharing platform services was published in May 2024. Incitement to hatred or violence is named as a category of harmful content requiring regulation in the draft Code,¹³⁵ but measures to address toxic algorithms have been removed.¹³⁶

The Commission recommends that the State redoubles its efforts to progress the Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022, including by addressing our outstanding concerns through amendments, and ensures alignment with legislative and regulatory measures on online harmful content.

¹³¹ See the section in this report on 'Racism, discrimination and intolerance in Ireland'. See also, IHREC's Hate Track project, which combined social, scientific and computational methods to understand online racist speech in the Irish context: IHREC, [Hate Track: Tracking and Monitoring Racist Hate Speech Online](#) (2018).

¹³² See for example, [Joint submission on the draft Online Safety Code: Submitted to Coimisiún na Meán by more than sixty civil society organisation](#) (2024), pp. 4-5.

¹³³ [Online Safety and Media Regulation Act 2022](#).

¹³⁴ Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, [New media regulator, Coimisiún na Meán, formally established](#) (March 2023). For our observations on online safety and media regulation, see IHREC, [Submission to the Joint Committee on Media, Tourism, Arts, Culture, Sport and the Gaeltacht on the General Scheme of the Online Safety and Media Regulation Bill](#) (2021).

¹³⁵ Coimisiún na Meán, [Coimisiún na Meán to notify Online Safety Code to European Commission](#) (2024). The Online Safety Code will operate alongside the EU Code of Conduct on Countering Illegal Hate Speech Online. European Commission, [EU Code of Conduct on Countering Illegal Hate Speech Online](#) (2022). For civil society commentary on a previous version of the draft Code, see [Joint submission on the draft Online Safety Code: Submitted to Coimisiún na Meán by more than sixty civil society organisation](#) (2024).

¹³⁶ Irish Council for Civil Liberties, [ICCL disappointed at removal of recommender system measures from Online Safety Code](#) (May 2024).

Integration and inclusion

International and temporary protection applicants

During its visit to Ireland, ECRI should:

- › Request an update on the measures the State is taking to ensure access to legal representation is available to all international and temporary protection applicants, including under the accelerated border procedure.
- › Seek information on the implementation of the Comprehensive Accommodation Strategy for International Protection Applicants, in particular on any increases in the core supply of State-owned accommodation.
- › Engage with international and temporary protection applicants through civil society and representative groups, including about the impact of social welfare reforms in practice.

In addition to the rise in anti-immigrant rhetoric noted in this submission,¹³⁷ we are concerned about recent developments in immigration policy that will have negative impacts on international and temporary protection applicants. Ireland's decision to opt in to the EU Pact on Migration and Asylum is a particular cause for concern. Under the Pact, international protection applicants can be processed under 'normal' or 'accelerated border' procedures.¹³⁸ As part of the latter, individuals are not authorised to enter the territory of the Member State, and are accommodated in designated locations which are considered to be outside of the State.¹³⁹ Those who do not have documentation, have crossed a border illegally, or are from a State with a refugee recognition rate of 20% or less, will be

¹³⁷ See the section of the submission on 'Racism, discrimination and intolerance in Ireland'.

¹³⁸ The accelerated border procedure was introduced in Ireland in November 2022. Department of Justice, [Minister McEntee secures approval from Government to opt-in to measures of the EU Pact on Migration and Asylum](#) (2024). Under the Pact, accelerated procedures will be more widely permitted and will be mandatory in certain circumstances. ECRE, [Editorial: All Pact-ed up and ready to go: EU asylum law reforms](#) (2024).

¹³⁹ Even if these designated locations are within the territory, applicants are treated as being outside of the State. There is a concern that this could lead to a reduction in the rights protections available; however, the European Council on Refugees and Exiles has underlined that even in this context, the applicant remains under the jurisdiction of the Member State in question and legal protections apply. ECRE, [Reforming EU Asylum Law: The Final Stage - ECRE's analysis of the most important unresolved issues in the legislative reform of the Common European Asylum System and recommendations to the Co-Legislators](#) (2023), p. 14.

subject to immigration detention.¹⁴⁰ Many procedural rights are weakened by this Pact,¹⁴¹ and States are permitted to derogate from safeguards and guarantees in a variety of circumstances.¹⁴² While some positive measures, such as a right to legal assistance, have been introduced, no steps have been taken to address the funding issues which impede access in practice.¹⁴³ Additionally, the changes are likely to have negative impacts on families with children,¹⁴⁴ and victims of human trafficking,¹⁴⁵ who have already been adversely affected by the State's recent suspension of vulnerability assessments.¹⁴⁶

The proposed introduction of emergency legislation to designate the United Kingdom a safe third country risks placing international protection applicants in situations of legal limbo,¹⁴⁷ and has been informed by political narratives on asylum seeker pathways in the

¹⁴⁰ Irish Refugee Council, [Briefing paper to Oireachtas Justice Committee members on the EU Migration and Asylum Pact](#) (2024), p. 2. There are concerns that the changes envisaged by the Pact will lead to mass detention. ECRE, [ECRE comments on the regulation of the European Parliament and of the Council addressing situations of crisis and force majeure in the field of migration and asylum and amending regulation \(EU\) 2021/1147](#) (2024), p. IV. See also, IHREC, [Ireland and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment](#) (2024).

¹⁴¹ For example, under the Pact, challenges to prevent the transfer of an individual to another Member State can only be made if the transfer poses a real risk of inhuman or degrading treatment for the person concerned. The appeal must be lodged within three weeks. ECRE, [ECRE comments on the regulation of the European Parliament and of the Council on asylum and migration management, amending regulations \(EU\) 2021/1147 and \(EU\) 2021/1060 and repealing regulation \(EU\) NO 604/2013](#) (2024), p. III.

¹⁴² Under the Crisis and Force Majeure Regulation, States may derogate from obligations in three situations. However, these situations are not clearly defined and there is a risk of misuse or overuse. The European Council on Refugees and Exiles has stated that even in situations of derogation, the principles of necessity, proportionality and respect for fundamental rights must be guaranteed. ECRE, [ECRE comments on the regulation of the European Parliament and of the Council addressing situations of crisis and force majeure in the field of migration and asylum and amending regulation \(EU\) 2021/1147](#) (2024), pp. II-III.

¹⁴³ ECRE, [ECRE comments on the regulation of the European Parliament and of the Council on asylum and migration management, amending regulations \(EU\) 2021/1147 and \(EU\) 2021/1060 and repealing regulation \(EU\) NO 604/2013](#) (2024), p. II; Accelerating decision-making without allocating additional funding for legal aid and assistance will result in less access to legal services in practice. Irish Refugee Council, [Briefing paper to Oireachtas Justice Committee members on the EU Migration and Asylum Pact](#) (2024).

¹⁴⁴ Families with children will not be exempted from the border procedure, with only limited additional safeguards. Irish Refugee Council, [Briefing paper to Oireachtas Justice Committee members on the EU Migration and Asylum Pact](#) (2024).

¹⁴⁵ The border procedure does not allow people to apply for other forms of protection, such as humanitarian permission to remain. Irish Refugee Council, [Briefing paper to Oireachtas Justice Committee members on the EU Migration and Asylum Pact](#) (2024). The State also fails to accommodate victims of human trafficking in shelters, instead placing them in Direct Provision, which is ill-equipped to cater to their needs. IHREC, [Second Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2023), pp. 112-123.

¹⁴⁶ The 'Vulnerability Assessment' pilot programme, designed to identify and address the special reception needs of applicants, has recently been suspended until further notice. IPAS, [Vulnerability Assessment Pilot Programme](#) (2024); IHREC, [Second Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2023), pp. 107-110.

¹⁴⁷ Department of Justice, [Minister McEntee secures Cabinet approval for legislative change to allow resumption of returns to the UK](#) (April 2024).

absence of verifiable data.¹⁴⁸ As noted by the United Nations High Commissioner for Refugees, certain conditions must be met for a country to be designated a safe third country, including access to fair and efficient asylum procedures, authorisation to remain in the country while a status determination is made, and access to rights.¹⁴⁹

The Commission recommends that immigration legislation introduced by the State, including as part of the implementation of the EU Pact on Migration and Asylum, does not reduce procedural safeguards, expand the use of immigration detention or otherwise erode human rights protections for international and temporary protection applicants.

We have previously highlighted deficiencies in the framework for family reunification under the International Protection Act 2015, which removed the right of international protection beneficiaries to apply for family reunification with extended family members; introduced statutory time limits; and does not extend to refugees who have been naturalised as Irish citizens.¹⁵⁰ The family reunification framework for temporary protection beneficiaries provides more extensive protection, which highlights the two-tier nature of the immigration system as it currently exists.¹⁵¹

The Commission recommends that the Department of Justice undertakes an independent and comprehensive review of the current legislative and policy framework on family reunification, to ensure it complies with national and international human rights and equality standards.

During its last visit to Ireland, ECRI expressed its concerns about the accommodation of international protection applicants in Direct Provision centres, noting the lengthy stays, variation in living standards and intersectional discrimination experienced by LGBTI+

¹⁴⁸ Department of Justice and Equality, [International Protection](#) (April 2024).

¹⁴⁹ UNHCR, [UNHCR Statement on the Introduction of Emergency Legislation by the Irish Government](#) (2024). We also note the recent ruling by the Belfast High Court that sections of the UK's *Illegal Migration Act 2023* are incompatible with the European Convention on Human Rights: [In re NIHRC and JR 295](#).

¹⁵⁰ IHREC, [Policy Statement on Family Reunification](#) (2023), pp. 8-15.

¹⁵¹ The definition of 'family' as part of the family reunification provisions for those granted temporary protection following the invasion of Ukraine is wider than that provided for in section 56 of the 2015 Act. See Article 2(4) of the [Council Implementing Decision \(EU\) 2022/382 of 4 March 2022](#).

residents.¹⁵² Despite pledging to end Direct Provision by 2024, the State has confirmed that this commitment will not be met, and has replaced the White Paper on Ending Direct Provision¹⁵³ with a new Comprehensive Accommodation Strategy. This Strategy sets out a revised mixed-accommodation approach, forecasts continued reliance on emergency commercial providers and weakens the commitment to move to a State owned system.¹⁵⁴ Residents in international protection accommodation continue to encounter difficulties accessing basic amenities and services, including food preparation arrangements, transportation, healthcare, and leisure activities.¹⁵⁵ Some are living in facilities lacking natural light, adequate ventilation and recreational spaces.¹⁵⁶ Recent inspection reports have highlighted concerning levels of non-compliance with national standards.¹⁵⁷ Due to severe capacity issues in the system, there are also 1,966 international protection applicants awaiting an offer of accommodation and living in homelessness.¹⁵⁸

The State has recently announced that it will reduce the rate of social welfare for temporary protection applicants by more than 80%.¹⁵⁹ As a result of this regressive measure, most international and temporary protection applicants will receive just €38.80 per week in social welfare, while those who have not been provided with accommodation will continue to receive €113.80 per week.¹⁶⁰ A proposed introduction of a means test for

¹⁵² ECRI, [ECRI Report on Ireland – Fifth Monitoring Cycle](#) (2019), pp. 30-31.

¹⁵³ Government of Ireland, [White Paper on Ending Direct Provision](#) (2021).

¹⁵⁴ Commercial providers will provide up to 10,000 emergency accommodation beds up to 2028. Under the State's revised Accommodation Strategy, there is a commitment to accommodate victims of trafficking in specialised, community-based housing but there is no implementation timeline: Government of Ireland, [Comprehensive Accommodation Strategy for International Protection Applicants](#) (2024), p. 9.

¹⁵⁵ S. Cid, [Living in International Protection Accommodation: Exploring the Experiences of Families and Children in Direct Provision](#) (2023).

¹⁵⁶ IHREC, [Ireland and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment](#) (2024), p. 59.

¹⁵⁷ HIQA, [HIQA publishes first inspection reports on International Protection Accommodation Service centres](#) (April 2024); HIQA, [International Protection Accommodation Service centres publication statement](#) (May 2024).

¹⁵⁸ Department of Children, Equality, Disability, Integration and Youth, [Statistics on International Protection Applicants not offered accommodation](#) (June 2024). The State recently confirmed that 'there is also an increasing likelihood that families, including women and children, could find themselves without an offer of accommodation in the coming weeks or months': Government of Ireland, [Comprehensive Accommodation Strategy for International Protection Applicants](#) (2024), p. 9.

¹⁵⁹ UNHCR, [UNHCR Statement on Proposed Benefit Cuts for Refugees from Ukraine](#) (2024).

¹⁶⁰ Department of Children, Equality, Disability, Integration and Youth, [Statistics on International Protection Applicants not offered accommodation](#) (May 2024).

this 'Daily Expenses Allowance' raises further concerns,¹⁶¹ particularly in light of the ongoing discriminatory practice that international and temporary protection applicants are not entitled to the child benefit payment.¹⁶²

The Commission recommends that the Department of Children, Equality, Disability, Integration and Youth improves the availability and quality of accommodation for international protection applicants through significantly increasing State-owned bed capacity; addressing the findings of recent inspection reports; and issuing guidelines to local authorities providing homelessness supports.

The Commission recommends that the Department of Social Protection fully assesses all social welfare policy reforms impacting international and temporary protection applicants, in line with the guiding principles of poverty reduction and welfare indexation.

Travellers

During its visit to Ireland, ECRI should:

- › Seek an update from the Programme Board and Department of Housing on the implementation of the Traveller Accommodation Expert Review report, particularly recommendations requiring legislative reform and the establishment of an independent authority.
- › Engage with relevant local authorities about their Equality Action Plans and implementation of same, and their responses to recommendations included in the Commission's accounts of the Plans due to be published in June 2024.
- › Request data from the State on discrimination cases being taken by Travellers against licenced premises, and its commitment to return jurisdiction to the Workplace Relations Commission given that the burden of proof is not reversed in accordance with the Race Directive, there are significant barriers to lodge proceedings, and a risk of costs.

¹⁶¹ L. Fletcher, [Means test move could affect over 5,000 asylum seekers](#) (24 May 2024). The Daily Expenses Allowance payment will cease where a person has income of more than €125 per week for a combined total of 12 weeks or more.

¹⁶² IHREC, [Ireland and the International Covenant on Economic, Social and Cultural Rights](#) (2023), p. 92.

The persistent discrimination, racism and inequality experienced by the Traveller community in Ireland¹⁶³ has been repeatedly criticised by the Council of Europe and United Nations.¹⁶⁴ While the recognition of Irish Travellers as an ethnic minority in 2017 had symbolic value, it is of no legal effect and their rights remain unclear and unprotected.¹⁶⁵ Long-standing individual and institutional racism against Travellers, and the lack of implementation by the State in critical policy areas,¹⁶⁶ has a clear detrimental impact on health outcomes, including in relation to life expectancy,¹⁶⁷ self-harm and suicide rates.¹⁶⁸

We note that as part of its follow-up procedure in 2021, ECRI concluded that despite some encouraging developments, its recommendations on Traveller accommodation had not seen sufficient progress.¹⁶⁹

A more recent assessment by the European Committee of Social Rights in March 2024 found the lack of:

¹⁶³ 32,949 Travellers were recorded as living in Ireland in Census 2022, an increase of 6% since 2016: [Profile 5 - Diversity, Migration, Ethnicity, Irish Travellers & Religion](#).

¹⁶⁴ For example, in its 2024 findings on Ireland, the Committee on Economic, Social and Cultural Rights called on the State to take all measures necessary, including targeted special measures, to prevent and combat the persistent discrimination, racism and inequality faced by Travellers in Ireland: [Concluding observations on the fourth periodic report of Ireland](#) (2024), para 23.

¹⁶⁵ This was recognised in the High Court, where Justice Eager remarked that the recognition 'has no legal effect, clearly it is not legislation'. See *Mongans & Ors v Clare County Council* [2017] IEHC 709, para. 37.

¹⁶⁶ Including poverty, housing, employment, education and access to healthcare. For further information, see IHREC, [Ireland and the International Covenant on Economic, Social and Cultural Rights](#) (2024).

¹⁶⁷ Travellers have a lower average life expectancy, with only 5% of the population aged 65 years and over (compared to 15% in the general population). Between the ages of 30 and 59, the proportion of the population experiencing at least one long-lasting condition or difficulty to a great extent was over three times higher for Irish Travellers (21%) than the total population (6%). Census 2022, [Profile 5 - Diversity, Migration, Ethnicity, Irish Travellers & Religion](#).

¹⁶⁸ The National Traveller Health Action Plan is based on data that suicide accounts for approximately 11% of all deaths within the Traveller community which is 6 times the national rate: Department of Health and Health Services Executive, [National Traveller Health Action Plan \(2022-2027\): Working together to improve the health experiences and outcomes for Travellers](#) (2022), p. 43. More recent data indicates that this crisis continues, and that Travellers have the highest rates of self-harming compared to other ethnic groups: Irish Traveller Movement, [Parallel report to the Committee to the International Covenant on Economic, Social and Cultural Rights towards Ireland's review at its 75th Session](#) (2024), p. 8. Recent research found that the overarching and root cause of suicide amongst Travellers in one area was discrimination and racism: South Dublin Travellers Report, [Nature, Extent and Impact of Suicide Amongst the Traveller Community in South County Dublin & Ballyfermot](#) (2021), pp. 38-39.

¹⁶⁹ ECRI, [Conclusions on the Implementation of the Recommendations in Respect of Ireland Subject to Interim Follow-up](#) (2022), p. 4.

“any evidence of tangible and meaningful improvements as regards the provision of accommodation for Travellers or living conditions on halting sites.”¹⁷⁰

As highlighted in our previous submission to ECRI in 2021, we have also undertaken an analysis of the provision of Traveller accommodation in Ireland through our Equality Review process.¹⁷¹ Invitations to prepare and implement an Equality Action Plan issued to seven local authorities in November 2022,¹⁷² with an emphasis on addressing our outstanding concerns and identifying specific, measurable, attainable, relevant and time-based objectives. All Equality Actions Plans were received and reviewed, and our accounts are finalised and due to be published in June 2024. The themes emerging from our assessment of the Equality Action Plans, and engagement with national and local representative groups, are summarised below.

Overall, the State’s failure to advance structural reform in the delivery of Traveller accommodation means that progress is stagnating and the required policy, legislative and oversight frameworks are not in place. Poor communication and engagement with Travellers and their representative groups persists, and perpetuates a lack of trust in local authorities. Many of the recommendations of the Traveller Accommodation Expert Review Group have yet to be fully implemented,¹⁷³ including in relation to data collection and the establishment of a National Traveller Accommodation Authority.¹⁷⁴ The development of

¹⁷⁰ European Committee of Social Rights, [Follow-up to Decisions on the Merits of Collective Complaints: Findings 2023](#) (2024), p. 127. For further recent criticisms of the availability of culturally appropriate accommodation for Travellers in Ireland, see Committee on Economic, Social and Cultural Rights, [Concluding observations on the fourth periodic report of Ireland](#) (2024), para 40.

¹⁷¹ IHREC, Submission to the European Commission against Racism and Intolerance on the interim followup recommendations to Ireland in the 5th monitoring cycle (2021).

¹⁷² South Dublin County Council, Limerick City and County Council, Wicklow County Council, Cork City Council, Mayo County Council, Tipperary County Council, and Donegal County Council.

¹⁷³ The latest update from the Programme Board responsible for implementing the recommendations notes that 27 out of 32 recommendations are being progressed through the ongoing work programme, and 10 of these have been completed. However, for many of the recommendations the updates are limited and are not accompanied by clear activities or timelines. Government of Ireland, [Traveller Accommodation Expert Review: Programme Board Update](#) (December 2023), p. 6.

¹⁷⁴ The European Committee of Social Rights criticised Ireland in 2024 for the delays in implementing the ‘crucial’ recommendations of the Review Group: [Follow-up to Decisions on the Merits of Collective Complaints: Findings 2023](#) (2024), p. 127. Traveller representative organisations have also cast doubt on the State’s progress in the absence of ‘foundational governance’; the establishment of an independent authority responsible for oversight and delivery of Traveller accommodation is delayed and is being undermined: [Parallel report to the Committee to the International Covenant on Economic, Social and Cultural Rights towards Ireland’s review at its 75th Session](#) (2024), p. 6. The Housing Commission recently echoed this

culturally appropriate Traveller accommodation continues to be significantly hindered by the planning system, including due to local opposition and the consequent politicisation of the process.¹⁷⁵ The proposed Planning and Development Bill 2023 does not represent adequate progress, as it dilutes current obligations to provide Traveller-specific accommodation and the scope of the community to mount legal challenges for failure to deliver.¹⁷⁶ The State has also failed to adopt legislative measures to prevent evictions being carried out in practice without the necessary safeguards, resulting in an ongoing violation of the Revised European Social Charter.¹⁷⁷ This is compounded by the difficulties experienced by Travellers in accessing legal aid in cases on housing and land, and the ongoing delays in the reform of the Civil Legal Aid Scheme.¹⁷⁸

While there are welcome improvements in the drawdown of the Traveller accommodation budget, we continue to be concerned about allocation levels and the accountability and transparency achieved.¹⁷⁹ As the spending is concentrated on refurbishments, the delivery of new units falls significantly short of what is required¹⁸⁰ and many of the Travellers we engage with have been on the housing list for years.¹⁸¹ The impact of new initiatives is

recommended to establish a National Traveller Accommodation Authority: [Report of the Housing Commission](#) (2024), p. 212.

¹⁷⁵ For further commentary, see FLAC, [Traveller Accommodation: Access to Justice, Human Rights and Equality Submission to the Joint Committee on Key Issues affecting the Traveller Community](#) (2024), pp. 7-8.

¹⁷⁶ IHREC, [Commission warns New Bill may have Significant Consequences for the Traveller Community](#) (October 2023).

¹⁷⁷ European Committee of Social Rights, [Follow-up to Decisions on the Merits of Collective Complaints: Findings 2023](#) (2024), p. 127.

¹⁷⁸ Committee on Key Issues affecting the Traveller Community, [Traveller Accommodation: Discussion \(Resumed\)](#) (21 March 2024).

¹⁷⁹ For more information, see IHREC, [Comments on Ireland's 20th National Report on the Implementation of the European Social Charter](#) (2023), pp. 7-8. A recent report by the Housing Commission highlights that spending by local authorities on Traveller-specific accommodation can vary considerably, and the increased national spend has not resolved the problems relating to delivery and supply: [Report of the Housing Commission](#) (2024), p. 211.

¹⁸⁰ For example, a breakdown of the 2023 delivery streams under Housing for All, the Government's plan to increase the supply of housing, reports 29 Traveller Accommodation new build units in 2023. Department of Housing, Planning, and Local Government, [Local Authorities](#) (2024). The Irish Traveller Movement also reports that of all Traveller accommodation planned nationally (297 Traveller projects comprising 892 units) by local authorities from 2016 -2023 only 93 were planned as new units, with 707 units earmarked for refurbishments or health and fire safety: [Parallel report to the Committee to the International Covenant on Economic, Social and Cultural Rights towards Ireland's review at its 75th Session](#) (2024), p. 5.

¹⁸¹ Travellers report changing their accommodation preference away from halting site or group housing accommodation to standard social housing, due to their belief that these culturally appropriate options will never come on stream or will not be available to them within a reasonable timeframe.

hindered by their limitations; for example, the Caravan Loan Scheme is difficult to access and provides loan amounts that can be too low to purchase quality caravans.¹⁸²

In practice, there continues to be reports of chronically poor living conditions in existing halting sites and group housing schemes, including as their location is often unsuitable for residential purposes. Such conditions include damp and mould; the lack of cooking facilities; inadequate sanitation, running water and electricity; vermin and pest infestations; and irregular or no rubbish collections.¹⁸³ Despite an investigation by the Ombudsman for Children into the particular impacts on the development of children, local authority action is not happening at the necessary pace required.¹⁸⁴ There are also no statutory minimum standards in relation to halting site accommodation, whether temporary, permanent or transient.¹⁸⁵

The Commission recommends that the Department of Housing, Local Government and Heritage prioritises rights-based legislative reform, to underpin sustainable progress in the delivery of Traveller accommodation, including in the areas of planning, evictions, and the introduction of statutory minimum standards for all forms of halting sites.

The prevalence of discrimination against Travellers seeking access to licenced premises, including for family events, has been described as giving rise to their ‘cultural segregation’.¹⁸⁶ Section 19 of the *Intoxicating Liquor Act 2003* requires people claiming discrimination against licenced premises to apply to the District Court rather than the more accessible Workplace Relations Commission, which raises concerns about Traveller’s right to access justice and compliance with EU law.¹⁸⁷ For example, adversarial conditions,

¹⁸² See Community Law and Mediation, [The Legal Implications and Lived Experiences of the Caravan Loan Scheme](#) (2020). See also Committee on Key Issues affecting the Traveller Community, [Traveller Accommodation: Discussion \(Resumed\)](#) (22 February 2024).

¹⁸³ IHREC, [Comments on Ireland’s 20th National Report on the Implementation of the European Social Charter](#) (2023), p. 14. See also, Committee on Key Issues affecting the Traveller Community, [Traveller Accommodation: Discussion \(Resumed\)](#) (21 March 2024).

¹⁸⁴ Ombudsman for Children, [Local Authority doing better for children on halting site](#) (December 2022).

¹⁸⁵ FLAC, [Traveller Accommodation: Access to Justice, Human Rights and Equality Submission the Joint Committee on Key Issues affecting the Traveller Community](#) (2024), p. 10.

¹⁸⁶ FLAC, [WRC finds Family refused access to hotel for Confirmation celebration were subject to discrimination on the Traveller Community ground](#) (2023).

¹⁸⁷ We have noted that in the absence of a legitimate and proportionate aim, the differential treatment of discrimination complaints relating to licenced premises raises particular concerns regarding compliance with the Racial Equality Directive, including the principle of non-regression, article 2 on indirect discrimination,

formal rules, burden of proof requirements and technical documentation create a more procedurally complex and costly system and impose onerous obligations on claimants.¹⁸⁸ This results in an inequality of arms if the complainant has no access to legal representation, and we note the particular challenges in accessing such representation in equality cases.¹⁸⁹ While there is an absence of data on such proceedings, practitioners have highlighted the deterrent effect this jurisdictional change is having and the significant reduction in the number of these discrimination cases being taken.¹⁹⁰

The Commission recommends that jurisdiction for discrimination cases against licensed premises is returned to the Workplace Relations Commission by repealing section 19 of the Intoxicating Liquor Act 2003.

Roma

During its visit to Ireland, ECRI should:

- › Inquire about plans to repeat the National Roma Needs Assessment survey, to reflect Census 2022 data and identify emerging needs in Roma communities.
- › Inquire as to whether the Programme for Government commitment to prepare a Traveller and Roma Enterprise and Training Plan will be achieved within the lifetime of the current Government.
- › Request information on the implementation of the Equal Start model, including measures to respond to the cultural and linguistic needs of Roma children.
- › Hold the State to account for its failure to assess the discriminatory impact of the Habitual Residence Condition and other residency requirements on Roma, and seek its

and article 8 on the burden of proof. See IHREC, [Submission on the Review of the Equality Acts \(2023\)](#), pp. 35-36.

¹⁸⁸ For more information, see IHREC, [Submission on the Review of the Equality Acts \(2023\)](#), pp. 35-36 and Government of Ireland, [The Equality Acts Review: Summary of the submissions received to the 2021 Public Consultation on the Review of the Equality Acts](#) (2023), p. 61.

¹⁸⁹ Many practitioners in the District Court do not take equality cases. While legal aid is available for section 19 cases, awareness is low and uptake is slow due to legal aid thresholds for means testing and delays in the service provision. Government of Ireland, [The Equality Acts Review: Summary of the submissions received to the 2021 Public Consultation on the Review of the Equality Acts](#) (2023), pp. 61-63.

¹⁹⁰ It has been asserted that the reduction in cases is related to difficulties in taking a case and not a reduction in discrimination. Government of Ireland, [The Equality Acts Review: Summary of the submissions received to the 2021 Public Consultation on the Review of the Equality Acts](#) (2023), p. 61.

response to our observations on the proposed Housing (Miscellaneous Provisions) Bill 2024.

Roma have been present in Ireland since the 1990's.¹⁹¹ In 2022, 16,059 people in Ireland identified as Roma,¹⁹² a figure which is significantly higher than previous estimates.¹⁹³ This group encompasses a range of nationalities, including many second-generation Roma, and requires nuanced and intersectional policies to ensure integration and inclusion.¹⁹⁴ However, as noted by ECRI in previous monitoring reports, individual and structural racism and discrimination impede access to a range of basic rights for Roma communities in Ireland.¹⁹⁵

Roma are disproportionately subjected to hatred and intolerance in the community.¹⁹⁶ In the aftermath of the Dublin riots, many Roma women, easily identifiable by their traditional dress, felt compelled to avoid public spaces.¹⁹⁷ The high risk of hate incidents against Roma is exacerbated by challenges in access to justice, as Roma communities are simultaneously over-policed¹⁹⁸ and under-protected.¹⁹⁹

¹⁹¹ Joint Committee on Key Issues affecting the Traveller Community, [Discussion](#) (2024).

¹⁹² Data on Roma ethnicity was collected for the first time in 2022. CSO, [Census of population 2022 – Summary Results: Migration and Diversity](#) (2023).

¹⁹³ In 2018, the National Roma Needs Assessment estimated that the Roma population in Ireland was between 4,000 and 5,000. The State has not repeated this survey, meaning that much of data relied on by the State and civil society is at least six years old. Department of Justice and Equality and Pavee Point Traveller and Roma Centre, [Roma in Ireland: A National Needs Assessment](#) (2018).

¹⁹⁴ Joint Committee on Key Issues affecting the Traveller Community, [Discussion](#) (2024).

¹⁹⁵ Following its visit to Ireland in 2018, ECRI noted issues with access to 'jobseekers allowance, child benefit, medical cards, housing assistance, and... education and employment.' ECRI, [ECRI Report on Ireland – Fifth Monitoring Cycle](#) (2019), p. 22.

¹⁹⁶ Roma are one of the groups most targeted by hate speech. Irish Network Against Racism, [Reports of Racism in Ireland 2022](#) (2023), p. 24. See also Pavee Point Traveller and Roma Centre and Applied Social Studies Maynooth University, [Roma in Ireland: Access to Fair and Decent Work](#) (2023), p. 32.

¹⁹⁷ Joint Committee on Key Issues affecting the Traveller Community, [Discussion](#) (2024).

¹⁹⁸ In the 2018 National Roma Needs Assessment survey, more than 3 in 4 Roma respondents had been stopped by police, with more than half stopped on multiple occasions. Irish Council for Civil Liberties and Irish Network Against Racism, [Policing and racial discrimination in Ireland: A community and rights perspective](#) (2024), p. 16.

¹⁹⁹ Data from the Irish Network Against Racism (INAR) shows that only 5% of racist incidents against Roma reported to INAR were subsequently reported to the police. This has been linked to low levels of trust in An Garda Síochána. Irish Network Against Racism, [Reports of Racism in Ireland 2022](#) (2023), pp. 11, 24. See also ECRI, [Preventing and combating antigypsyism and discrimination against Roma and Travellers - Factsheet](#) (2023), p. 16.

Many of the barriers to accessing employment and services noted by ECRI in its fifth monitoring report continue to persist today. Despite the ‘full employment’ narrative frequently emphasised by the State, there continue to be high levels of Roma unemployment and underemployment, and many Roma have reported hiding their identity when seeking work due to fear of discrimination.²⁰⁰ The lack of culturally appropriate healthcare has detrimental effects on Roma,²⁰¹ with recent research highlighting particular shortcomings in maternal healthcare for expectant mothers.²⁰² Roma are also under-represented at all levels of education.²⁰³ We welcome measures taken by the State to address low levels of participation of Roma children in Early Childhood Education and

²⁰⁰ Other barriers to employment identified in the research include language and literacy challenges; lack of access to appropriate training; health issues linked to housing/prior working conditions; and lack of childcare and transport options. Research participants who were in employment were more likely to be engaged in precarious and low quality work. Pavee Point Traveller and Roma Centre and Applied Social Studies Maynooth University, [Roma in Ireland: Access to Fair and Decent Work](#) (2023). The Programme for Government 2020 committed to preparing a Traveller and Roma Employment and Enterprise Plan, however, this action has not been completed. Government of Ireland, [Programme for Government: Our Shared Future](#) (2020), p. 70.

²⁰¹ 71% of Roma reported experiencing discrimination when accessing health services. Roma report a lack of access to mainstream services, in particular for children, and barriers in relation to access to primary healthcare services, screening services, dental services, cancer support services, sexual health services and mental health services. Values Lab, Report on the outcome of the local consultation process with Traveller and Roma organisations, community groups, and individuals to inform the development of the successor strategy to the National Traveller and Roma Inclusion Strategy (unpublished). We note ECRI’s recommendation that ‘authorities should commission an independent assessment of the level of discrimination of Roma in the health sector as a basis for future action and ensure that Roma benefit from health insurance coverage.’ ECRI, [Preventing and combating antigypsyism and discrimination against Roma and Travellers - Factsheet](#) (2023), p. 14.

²⁰² Expectant mothers from Roma communities face barriers at all stages, including lack of access to free maternal healthcare, primary healthcare and medical cards; racism and discrimination from healthcare staff; limited culturally appropriate information and inconsistent postnatal care. Pavee Point Traveller and Roma Centre, [Le Romneango Sfato. Roma women’s voices: experiences of maternal health services in Ireland](#) (2023).

²⁰³ In 2018, 38% of Roma adults indicated they had no formal education, with women twice as likely as men to have never attended school. In consultation events with Roma and Roma organisations in 2023, issues such as the failure of schools to recognise and affirm cultural identity; lack of an ethnic identifier; discrimination by teachers; lack of access to transport; and enrolment barriers were raised by participants. Values Lab, Report on the outcome of the local consultation process with Traveller and Roma organisations, community groups, and individuals to inform the development of the successor strategy to the National Traveller and Roma Inclusion Strategy (unpublished). Roma children in education may be subjected to identity-based bullying from peers. Pavee Point Traveller and Roma Centre and Applied Social Studies Maynooth University, [Roma in Ireland: Access to Fair and Decent Work](#) (2023). See the section of this report on ‘Racism, discrimination and intolerance in Ireland.’

Care,²⁰⁴ however, these measures must be accompanied by additional investment to respond to broader sectoral issues, impeding access in practice.²⁰⁵

The Commission recommends that the State provides adequate funding to Roma-led community development organisations to ensure their participation in research, policy implementation and monitoring across a variety of human rights, including employment, education, healthcare and protection from racism and intolerance.

The Habitual Residence Condition and other residency requirements²⁰⁶ continue to impede equal access to social welfare and housing for Roma, and there have been no discernible improvements since ECRI's last visit. Despite repeat criticism from UN and Council of Europe monitoring committees,²⁰⁷ the Commission²⁰⁸ and civil society,²⁰⁹ the State has not acknowledged or assessed the indirectly discriminatory impact these conditions have on minority communities such as Roma.²¹⁰

²⁰⁴ The State recently announced the Equal Start funding model which will benefit Traveller children, Roma children, children in the International Protection system and others. Equal Start will include a suite of universal supports, child-targeted supports and setting-targeted supports to ensure every child and early learning and childcare setting will benefit from a continuum of supports that reflects a continuum of need. Department of Children, Equality, Disability, Integration and Youth, [Equal Start for children experiencing disadvantage](#) (2024).

²⁰⁵ For example, public funding, including childcare subsidies for parents, is only provided for programmes offered through providers registered with Tusla, the Child and Family Agency. Other forms of childcare, such as that provided by unregistered childminders (approximately 1,300 in Ireland) are not covered by publicly funded childcare schemes. Children's Rights Alliance, [Child Poverty Monitor 2024](#) (2024), pp. 7, 34-40. There are also supply issues linked to recruitment and retention of staff, with significant waiting lists and limited vacant places in 2022/2023. Pobal, [Reported capacity by age group](#) (2024). See also IHREC, [Policy Statement on Care](#) (2023).

²⁰⁶ One example is how the 'local connection' test for social housing is applied to persons accessing emergency accommodation. See Mercy Law Resource Centre, [Submission to the Joint Oireachtas Committee on Housing, Local Government and Heritage on the General Scheme of the Housing \(Miscellaneous Provisions\) Bill](#) (2024).

²⁰⁷ See for example CESCR, [Concluding Observations on the fourth periodic report of Ireland](#) (2024), paras 34-35; GREVIO, [Baseline Evaluation Report: Ireland](#) (2023), pp. 16, 52; ECRI, [ECRI Report on Ireland – Fifth Monitoring Cycle](#) (2019), p. 22; CEDAW, [Concluding observations on the combined sixth and seventh periodic reports of Ireland](#), (2017), paras 46-47.

²⁰⁸ See for example IHREC, [Ireland and the International Covenant on Economic, Social and Cultural Rights](#) (2024), pp. 85-86; IHREC, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women](#) (2023), p. 81; IHREC, [Submission to the Anti-Racism Committee](#) (2021), pp. 20-21.

²⁰⁹ See for example The National Roma Network, [Roma Accommodation Advocacy Paper](#) (2022); Pavee Point, [Habitual Residence Condition – Briefing Paper](#) (2014).

²¹⁰ See for example CESCR, [Seventy-fifth session - Summary record of the 9th meeting](#) (2024).

The Habitual Residence Condition must be satisfied to obtain core social welfare payments, including child benefit.²¹¹ The requirement to provide supporting documentation can be particularly challenging for Roma communities, who may not be able to evidence their residency due to a lack of official identification and irregular living situations.²¹²

Department of Social Protection guidelines on habitual residency highlight the significant discretion retained by deciding officers, which can lead to inconsistent decision-making and unfair outcomes.²¹³

We are concerned about current plans to place the lawful residency requirement under Housing Circular 41/2012 and the Habitual Residence Condition on statutory footing in the context of social housing assistance through the Housing (Miscellaneous Provisions) Bill 2024.²¹⁴ The Bill's requirement that all household members are lawfully and habitually resident in order to be eligible for assessment will create harsh consequences for households with different residency statuses and is not satisfactorily justified in the legislation.²¹⁵ The Bill does not grant a statutory right of appeal, which is essential to guarantee access to justice when dealing with complex eligibility requirements.²¹⁶ These proposed legislative developments compound existing issues faced by Roma when

²¹¹ Individuals must be habitually resident in Ireland to qualify for a number of payments including; Blind Pension, Carer's Allowance, Child Benefit, Disability Allowance, Domiciliary Care Allowance, Guardian's Payment (Non-contributory), Jobseeker's Allowance, One-Parent Family Payment, State Pension (Non-contributory), Supplementary Welfare Allowance (other than exceptional needs or urgent needs Payments), Widow's, Widower's or Surviving Civil Partner's (Non-contributory) Pension. Department of Social Protection, [Habitual Residence Condition](#) (2019).

²¹² Roma may struggle to satisfy the 'right to reside' test due to difficulties securing employment, as noted above. Additionally, they may struggle to evidence a claim of habitual residence due to language barriers, lack of proof of address if living with extended family, and women with childcare responsibilities may not satisfy the requirement that the applicant has realistic prospects of finding work. Pavee Point, [Habitual Residence Condition – Briefing Paper](#) (2014).

²¹³ For example, operational guidelines sets out factors to be considered but notes that 'those factors are not exclusive and other information considered relevant may also be used in arriving at a decision.' Department of Social Protection, [Operational Guidelines: For Deciding Officers and Designated Persons on the determination of habitual residence](#) (2024). See also, Community Law and Mediation, [Thematic Note on SWAO Case Studies: Right to Reside and Habitual Residence Condition](#) (2020).

²¹⁴ See Department of Housing, Local Government and Heritage, General Scheme of the Housing (Miscellaneous Provisions) Bill 2024.

²¹⁵ Mercy Law Resource Centre, [Submission to the Joint Oireachtas Committee on Housing, Local Government and Heritage of the General Scheme of the Housing \(Miscellaneous Provisions\) Bill 2024](#) (2024), pp. 4-6.

²¹⁶ Mercy Law Resource Centre, [Submission to the Joint Oireachtas Committee on Housing, Local Government and Heritage of the General Scheme of the Housing \(Miscellaneous Provisions\) Bill 2024](#) (2024), pp. 6-8.

seeking private rental accommodation, including overcrowding, poor living conditions, insecurity of tenure and discrimination.²¹⁷

The Commission recommends that the Department of Social Protection and the Department of Housing, Local Government and Heritage undertake an assessment of current and proposed habitual and lawful residency requirements to consider the impact on Roma communities, and introduce safeguards to protect against indirect discrimination.

²¹⁷ The National Roma Network, [Roma Accommodation Advocacy Paper](#) (2022); Irish Network Against Racism, [Reports of Racism in Ireland 2021](#) (2022), p. 11.



Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas
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