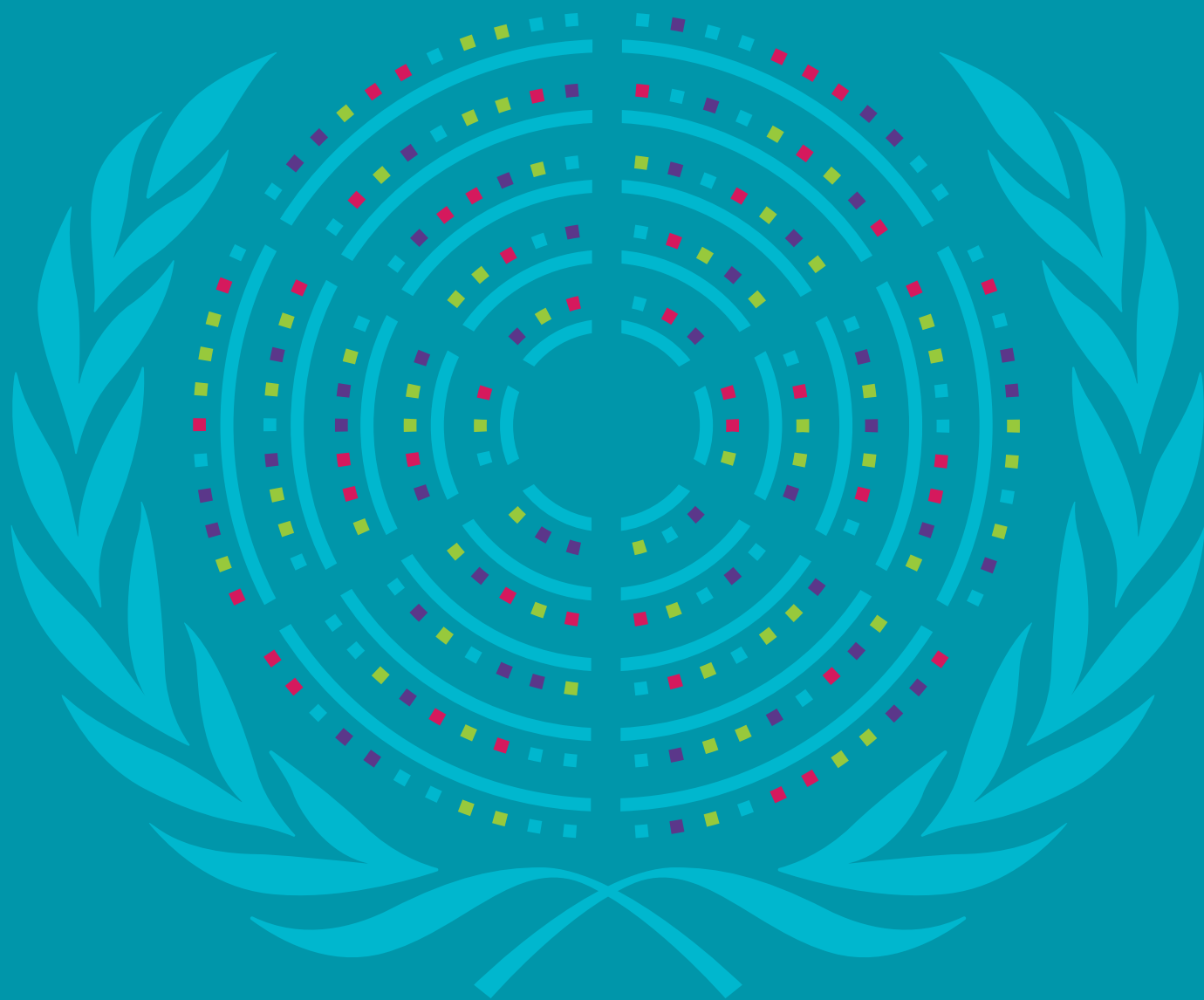


# Submission to the Third Universal Periodic Review Cycle for Ireland

Irish Human Rights and Equality Commission

*March 2021*



Coimisiún na hÉireann um Chearta  
an Duine agus Comhionannas

Irish Human Rights and Equality Commission

The Irish Human Rights and Equality Commission (“the Commission” or “IHREC”) is both the national human rights institution and national equality body for Ireland, established under the Irish Human Rights and Equality Commission Act 2014. Following our engagement with the Universal Periodic Review (“UPR”) process in 2015 and 2019, IHREC is pleased to have the opportunity to provide this submission to the Human Rights Council as part of the third cycle review of Ireland, the content for which is drawn from the Commission’s ongoing programme of research, monitoring and legal casework.

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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, 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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## Human Rights and Equality Framework

1. "A" status accredited,<sup>1</sup> the Commission accounts directly to parliament, and legislation ensures its structural and financial independence.<sup>2</sup> Following UNCRPD ratification in 2018 (**Recommendation 135.40**), the Commission has been designated Independent Monitoring Mechanism.<sup>3</sup> The Commission will also be assigned the NPM coordinator role under OPCAT, pending ratification (**Recommendation 135.8**).<sup>4</sup>
2. There is no dedicated cross-governmental Parliamentary committee to consider human rights and equality issues (**Recommendation 136.20**).<sup>5</sup> Recent research has highlighted the lack of regard to human rights and equality standards in emergency law-making in the context of Covid-19.<sup>6</sup> Equality legislation does not include prohibition on discrimination based on socio-economic status, although the Government has recently committed to legislative reform in this area.<sup>7</sup>
3. There are serious shortcomings in the scale and scope of baseline research on equality, poverty, and more recently, on the impact of Covid-19.<sup>8</sup> The State does not collect sufficient disaggregated data to allow adequate and regular assessment of the extent to which it is meeting its international obligations.<sup>9</sup>
4. Legislation regulating civil society space in Ireland (**Recommendation 135.126**), including the wide definition of 'political purposes' in the Electoral Act 1997,<sup>10</sup> and the exclusion of the advancement of human rights from the definition of 'charitable purpose' in the *Charities Act 2009*,<sup>11</sup> places undue restrictions on civil society engagement and advocacy.

## Recommendations for the State:

Establish a Parliamentary Committee on Human Rights and Equality with an expansive mandate across all government departments, including close oversight of emergency legislation.

- (2) Amend equality legislation to prohibit discrimination on the ground of socio economic status.
- (3) Collect comprehensive disaggregated data to ensure that individual rights are respected and to protect individuals against discrimination.
- (4) Review the *Electoral Act 1997* and the *Charities Act 2009* to prevent undue restriction of civil society engagement in human rights and equality advocacy.<sup>12</sup>

## Rights of Persons with Disabilities

5. Significant reform is required for the State's legislative and policy framework to abandon ableism,<sup>13</sup> and meet the standards of the UNCRPD (**Recommendation 135.67-135.68**). This includes legislation in respect of disability assessments,<sup>14</sup> education,<sup>15</sup> mental health treatment,<sup>16</sup> deprivation of liberty,<sup>17</sup> and the Commission's prospective Independent Monitoring Mechanism role.<sup>18</sup> Delays in commencement of legislation on legal capacity<sup>19</sup> have resulted in the continued operation of the outmoded provisions of the *Lunacy (Regulation) Act 1871*, governing wardship. The State has not ratified the Optional Protocol to the UNCRPD (**Recommendation 135.69**).<sup>20</sup>
6. Significant barriers to enjoyment of equal rights for persons with disabilities remain. Ireland continues to have amongst the lowest employment rates for people with disabilities in the EU (32.2% compared to 50.6% in the EU in 2017)<sup>21</sup> (**Recommendation 135.143**). Over 37% of people unable to work due to illness or disability are at risk of poverty.<sup>22</sup> Significant barriers also remain to achieving parity of access to education and healthcare for people with disabilities,<sup>23</sup> as well as barriers to the electoral process.<sup>24</sup>
7. Progress on the State's programme to deinstitutionalise residential disability services has been slow and the revised target timeframe for implementation by 2021 will not be met.<sup>25</sup> Persons with disabilities experience significant marginalisation and discrimination in housing,<sup>26</sup> and poorer health outcomes.<sup>27</sup> Experiences of disability discrimination are prevalent.<sup>28</sup>
8. There are issues surrounding involuntary treatment in mental health services.<sup>29</sup> Involuntary admissions to mental health establishments persist.<sup>30</sup> There is continued use of seclusion, physical restraint, electroconvulsive therapy, involuntary administration of medication, and a recorded pattern of failure to comply with the rules governing these practices.<sup>31</sup>
9. Covid-19 has exacerbated many of these issues.<sup>32</sup> An explicit human rights and equality-based approach is required to build a transition out of Covid-19 fully inclusive of disabled people.<sup>33</sup>

## Recommendations for the State:

bound programme of legislative reform to bring Ireland into compliance with the UNCRPD.

- (2) Adopt an explicit human rights and equality based approach to building a transition out of Covid 19 that is fully inclusive of disabled people.
- (3) Develop measures to address the poor outcomes, disadvantage and ableism experienced by persons with disabilities, in close cooperation with disabled people and their representative organisations.
- (4) Address the marginalisation of persons with disabilities through targeted positive action measures to increase the employment rate, and by integrating reasonable accommodation into recruitment, selection and employment processes.
- (5) Make the necessary legislative and regulatory reforms to ensure the electoral process is fully accessible.

## Policing and Detention

10. While there is a commitment to a human rights-based reform of policing in Ireland, timeframes for implementation remain unclear.<sup>34</sup> Issues include inadequate cultural competence within the policing system, with evidence of racial profiling in the use of stop and search, gaps in police accountability mechanisms, and the need for enhanced disaggregated data collection on the operation of policing powers (**Recommendations 135.79, 136.44**).<sup>35</sup>
11. With regard to detention (**Recommendations 135.121 – 135.126**), prisoners on remand and people detained for immigration-related reasons, continue to share cells with sentenced prisoners in a number of prisons.<sup>36</sup> 43% of prisoners are required to use a toilet in the presence of others, and some prisoners are still required to 'slop out'.<sup>37</sup> Female prisoners have raised concerns regarding the poor quality of menstruation products.<sup>38</sup> Health services are under-resourced in prisons,<sup>39</sup> despite the prevalence of mental illness<sup>40</sup> and drug misuse.<sup>41</sup> Prisoner-on-prisoner violence remains common.<sup>42</sup> Many prisoners are on restricted regimes for their own protection,<sup>43</sup> limiting their access to services, supports and contact with the outside world.<sup>44</sup> There is still no fully independent complaints mechanism for prisoners.<sup>45</sup> Restrictions and disease control measures imposed due to the Covid-19 pandemic have also had a significant impact on prisoners. In particular, in-person visits by prisoners' families and children have been severely restricted.<sup>46</sup>

### Recommendations for the State:

- (1) Provide details on the implementation of policing reform, including timeframes, responsibilities, progress thus far achieved, and alignment with human rights and equality standards.
- (2) Produce a time bound plan to address inadequacies in conditions of detention.



## Access to justice

12. Chronic under-resourcing of the criminal legal aid system, including reduced fees for legal practitioners, is having a significant impact on access to representation.<sup>47</sup> The operation of the civil legal aid system, including the minimum financial contribution,<sup>48</sup> is also a barrier to access to justice for those on low incomes, women, victims of trafficking and labour exploitation, international protection applicants, Travellers, Roma, people with disabilities and minority ethnic communities.<sup>49</sup> The Legal Aid Board cannot represent individuals before quasi-judicial tribunals and bodies dealing with social welfare appeals, housing issues, and employment and equality cases (**Recommendation 136.60**).<sup>50</sup> The Department of Justice has committed to reviewing the civil and criminal legal aid schemes and bringing forward proposals for reform in 2021.<sup>51</sup>
13. The Commission was appointed National Rapporteur on the Trafficking of Human Beings in October 2020.<sup>52</sup> There are several deficiencies in the State's response to trafficking, particularly an inadequate administrative scheme for the identification, non-punishment and protection of victims of trafficking (**Recommendation 136.94**),<sup>53</sup> including child victims,<sup>54</sup> and the failure to provide adequate accommodation and specialised services.<sup>55</sup>
14. The State has failed to ensure independent, thorough and effective investigations, in line with international standards, into allegations of human rights abuses in respect of Magdalene Laundries, Mother and Baby Homes, reformatory and industrial schools, foster care settings,<sup>56</sup> and the practice of symphysiotomy (**Recommendation 136.51**).<sup>57</sup> Investigations that have taken place have failed to adequately address issues relating to ableism and racism in institutional settings.<sup>58</sup> Administrative issues, including overly burdensome standards of proof, and difficulties accessing personal records held in archives, have created obstacles for victims and survivors in accessing effective redress through the schemes in place.<sup>59</sup>
15. The *Mother and Baby Homes Commission of Investigation's Final Report* was published in January 2021.<sup>60</sup> Concerns had been raised regarding the narrowness of the investigation's remit in terms of the institutions, types of abuses, and persons under investigation.<sup>61</sup> The report, and the actions stemming from it, illustrate the

ongoing need for a systemic change in how the State approaches and treats survivors seeking justice and redress for human rights abuses, to ensure full accountability and avoid inflicting further and ongoing trauma.<sup>62</sup>

### Recommendations for the State:

- (1) Progress reform of the criminal and civil legal aid schemes in a timely manner.
- (2) Address the shortcomings in the response to human trafficking, including by placing the identification process, non punishment principle and right to specialised services and assistance on a statutory footing, with special provision for child victims.
- (3) Overhaul the approach to investigating historical human rights abuses to ensure that all allegations of such abuse are afforded timely, independent, thorough and effective victim centred investigations, in line with international human rights standards.
- (4) Ensure that redress schemes for human rights abuses are based on the right to truth, justice, reparation, non recurrence and memory processes, and include clarity on rights of access to personal data and legislative measures to ensure that those who died in institutions receive dignity in death.<sup>63</sup>

## Racial discrimination

16. The Government has committed to introducing new laws to combat incitement and hate crime,<sup>64</sup> but as of March 2021, Ireland does not have effective hate crime or hate speech legislation (**Recommendations 136.45 - 136.46**).
17. Commission-funded research has found that Travellers and Black people experience particularly high rates of labour market discrimination, both when seeking work and in the workplace.<sup>65</sup> Minority ethnic women also face cumulative discrimination, including in relation to pay and promotion.<sup>66</sup>
18. The State has yet to renew the *National Action Plan Against Racism* which lapsed in 2008 (**Recommendations 135.105 - 135.106, 135.114, 1135.117 - 135.118**). In June 2020, an Anti-Racism Committee was established to develop a new *Action Plan Against Racism*, within one year.<sup>67</sup> The Commission has underlined the need to incorporate human rights and equality standards in the plan, particularly with regard to public participation, transparency and accountability.<sup>68</sup>

### Recommendations for the State:

- (1) Urgently develop legislative measures to combat online incitement to hatred and hate speech and to create substantive hate motivated criminal offences.
- (2) Take concrete measures to address discrimination in the workplace, including in relation to recruitment, pay, and promotion.
- (3) Introduce a national action plan against racism, informed by human rights and equality standards.

## Gender equality

19. As Article 41.2.2 of the Irish Constitution perpetuates stereotypical attitudes towards the role of women in society, constitutional reform is necessary (**Recommendation 136.15**).<sup>69</sup> In July 2019, a Citizens' Assembly was established to bring forth proposals to challenge gender discrimination.<sup>70</sup> The *Amendment of the Constitution (Role of Women) Bill* was scheduled for autumn 2020, but there has been no update on when a draft scheme of the Bill will be published.<sup>71</sup>
20. The *Health (Regulation of Termination of Pregnancy) Act 2018* was enacted in December 2018,<sup>72</sup> and as of April 2020, 373 general practitioners<sup>73</sup> and ten hospitals had signed up to provide abortion services in Ireland (**Recommendations 135.136, 136.15, 136.17 – 136.19, 136.64 – 136.65, 136.67, 136.69 – 136.73**).<sup>74</sup> The 2018 Act makes no provision for 'safe access' zones outside health centres providing abortion services.<sup>75</sup> A review of the Act is due in 2022, which will provide an opportunity to assess the degree to which universality and equality of access to services are being achieved.<sup>76</sup>
21. The gender pay gap in Ireland is approximately 14% and the gender pension gap 38%, indicative of wider labour market gender inequality (**Recommendations 135.91, 136.33 - 136.35**).<sup>77</sup> In June 2020, the European Committee of Social Rights found Ireland in violation of Article 20 of the European Social Charter due to the absence of indicators of progress in promoting equal pay, and insufficient progress in ensuring a balanced representation of women in private-sector decision-making positions.<sup>78</sup> The Government has committed to introducing legislation in 2021 to require the reporting by companies of gender pay differentials.<sup>79</sup>
22. Despite ratification of the *Istanbul Convention* in March 2019 (**Recommendations 135.71 – 135.75**)<sup>80</sup> and recent legislative developments,<sup>81</sup> there are ongoing issues with the response to violence against women and girls. There is limited availability, particularly in rural locations, of reliable support services, refuge spaces, accessible procedures, and specialised practitioners (**Recommendations 136.36 - 136.37, 136.39 – 136.42**).<sup>82</sup> This is particularly concerning in the context of the pandemic, during which domestic violence has significantly increased.<sup>83</sup>

## Recommendations for the State:

- (1) Amend Article 41.2.2 of the Constitution to ensure it is gender neutral, references family life as including a range of family relationships, and recognises and supports care work in the family.<sup>84</sup>
- (2) Urgently address the gender pay gap in Ireland, including through adoption of appropriate legislation.
- (3) Ensure that the assistance and services provided to victims of domestic violence are sufficient and not limited by geographical disparity or disability access.

## Traveller community

23. There is persistent and overt racism against Travellers in Ireland (**Recommendation 135.144**).<sup>85</sup> Travellers continue to experience systemic discrimination in employment, education, health, and housing, with many living in poverty.<sup>86</sup> The Covid-19 pandemic has significantly affected the Traveller community. Travellers are 2.6 times more likely to contract Covid-19 than the white Irish population, and overcrowded accommodation is likely to be a contributing factor.<sup>87</sup>
24. State recognition of Travellers as an ethnic minority in March 2017 was a welcome and long overdue development (**Recommendation 136.83**),<sup>88</sup> however, the High Court has found it has no legal effect.<sup>89</sup> Funding and infrastructure are required to preserve and develop Traveller culture and identity, including nomadism and horse ownership (**Recommendation 136.86**).<sup>90</sup> A *National Traveller and Roma Integration Strategy 2017-2021* was published in 2016 (**Recommendations 135.145 – 135.147**). However, implementation of this strategy has lacked clear budget allocation, impact indicators and timeframes.<sup>91</sup>
25. Human rights treaty monitoring bodies have highlighted persistent underspending of budgets by local authorities on culturally appropriate housing for Travellers.<sup>92</sup> While there has been recent progress in the drawdown of funding, inconsistencies between local authorities remain, and the focus has largely been on temporary measures in response to Covid-19.<sup>93</sup> The Commission is undertaking an equality review of local authorities' provision of Traveller-specific accommodation.<sup>94</sup>

### Recommendations for the State:

- (1) Ensure that an ambitious, well resourced, measurable and time bound strategy succeeds the *National Traveller and Roma Integration Strategy 2017-2021* and prioritises measures to combat racism and discrimination, and preserve and develop Traveller culture and identity.
- (2) Ensure that local authorities who fail to provide new Traveller specific and culturally appropriate accommodation are subject to dissuasive sanctions.

## Immigration Policy and International Protection

26. The long-term impact of the Direct Provision system on the rights of individuals seeking international protection, particularly on the right to family life, private life, and health, has been well-documented (**Recommendations 135.148 - 135.149, 136.88 - 136.89**).<sup>95</sup> These issues have intensified during the Covid-19 pandemic.<sup>96</sup>
27. The Government has recently committed to replacing Direct Provision with a 'human rights and equality based' model by December 2024.<sup>97</sup> Measures proposed include: ending the 'for profit' approach to reception of international protection applicants; earlier access to the labour market; implementation of vulnerability assessments in line with the *Reception Conditions Directive*;<sup>98</sup> provision of own-door community-based accommodation; provision of support payments; improved legal, health, education, childcare, employment activation supports; and facilitation of access to banking services and driving licenses.
28. Long delays remain in determining international protection claims,<sup>99</sup> and the Government has committed to addressing these.<sup>100</sup> The Commission has stressed the importance of adhering to due process, natural and constitutional justice requirements, and fair procedures when addressing the backlog.<sup>101</sup>
29. The *International Protection Act 2015* has severely restricted eligibility and applicable deadlines for family reunification applications, and has excluded naturalised citizens from its purview.<sup>102</sup> There is also a continued absence of any pathway to residency for undocumented people in Ireland.<sup>103</sup>

## Recommendations for the State:

- (1) Give urgent priority to the establishment of the new international protection support service within the proposed timeline, including by subjecting it to a detailed, time bound and publically accountable implementation plan.
- (2) Urgently progress the necessary reforms to address delays in determination of international protection claims, while ensuring the preservation of fair procedures. This should include the introduction of regularisation schemes to address the backlog of cases.
- (3) Amend the International Protection Act 2015 to more broadly define 'family member' in line with international human rights law, and lift the exclusion of naturalised refugees from the Act's purview. Develop a regularisation scheme for undocumented people.



## Housing

30. As of December 2020, there were 8,200 homeless people in Ireland.<sup>104</sup> Progress in responding to the housing crisis remains slow,<sup>105</sup> with social housing output inadequate to meet the needs of households currently in emergency accommodation.<sup>106</sup> The housing and homelessness crisis is having a disproportionate impact on particular groups in society, including children, Travellers, Roma, refugees, victims of domestic violence, and people with disabilities<sup>107</sup> (**Recommendations 135.131 -135.135**).
31. Commission-funded research has found that 38% of those living in local authority housing experience housing deprivation<sup>108</sup> and 28% of local authority houses are overcrowded.<sup>109</sup> People living in overcrowded housing have also been at greater risk of contracting Covid-19,<sup>110</sup> though mitigation measures have contributed to reducing this risk.<sup>111</sup>

### Recommendations for the State:

- (1) Support the recognition of socio economic rights, including the right to housing, in the Irish Constitution.<sup>112</sup>
- (2) Take urgent measures to recognise the right to housing, and ensure the provision of affordable secure housing at necessary scale, including social and public housing.<sup>113</sup>

## References

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- <sup>1</sup> IHREC, [The Irish Human and Equality Commission welcomes "A" status accreditation](#) (25 November 2015).
- <sup>2</sup> *Irish Human Rights and Equality Act 2014*. For detailed information on the work of IHREC, see [www.ihrec.ie](http://www.ihrec.ie).
- <sup>3</sup> IHREC, [New Departure on Rights of Persons with Disabilities as Formal Committee Begins Work in Monitoring Ireland's Obligations](#) (January 2019).
- <sup>4</sup> The Government has committed to ratifying OPCAT before the end of 2021. To this end, the General Scheme of the Inspection of Places of Detention Bill is being drafted and it is intended to bring this to Government for approval in the first quarter of 2021. See Department of Justice and Equality, [Written Answers - Human Rights](#) (10 December 2020).
- <sup>5</sup> A former Parliamentary Sub-Committee on Human Rights, relative to Justice and Equality matters met three times before the Parliament was dissolved on 3 February 2016 and it was not re-established following the 2016 general election. IHREC, [Submission to the Second Universal Periodic Review Cycle for Ireland](#) (September 2015) at p. 4.
- <sup>6</sup> Conor Casey, Oran Doyle, David Kenny, Donna Lyons, [Ireland's Emergency Powers During the Covid-19 Pandemic](#) (IHREC, February 2019).
- <sup>7</sup> Programme for Government, [Our Shared Future](#) (June 2020), p. 77.
- <sup>8</sup> The [Central Statistics Office Equality Audit](#) published in 2020 found a series of significant gaps in equality data in Ireland, particularly in relation to ethnicity, disability, sex and gender identity, and sexual orientation data. It also found that much of the data that is already available is only high level information and does not always allow for analysis of minority groups. There was also a reported lack of intersectional data. The [Q1 2019 Equality and Discrimination Survey](#) conducted by CSO covered discrimination in terms of rates, type, and settings in which it occurs (and its effect). However, this not a regularly conducted exercise (the previous iteration of this took place in Q3 2014 through the Quarterly National Household Survey) and the sample size is regarded as being too small to report meaningfully on minority groups. Measurement of poverty in Ireland is pursued in the Survey of Income and Living Conditions (SILC), published by the CSO which gathers data from a statistically representative sample. SILC operates a number of poverty indicators including groups at risk of poverty or deprivation but does not provide data on poverty disaggregated across equality grounds. While there has been some insights by Central Statistics Office in understanding the impact of COVID-19 through their ['Insights Bulletins: Deaths and Cases'](#) which offers analysis into incidents of cases and deaths by age, gender, location and disability status. However, the overall impact of COVID-19 case numbers and deaths among ethnic minorities and migrants is poor. See NESI (2021), [The Impacts of Covid-19 on Ethnic Minority and Migrant Groups in Ireland](#), p. 4.
- <sup>9</sup> IHREC (2020), [Submission to the United Nations Human Rights Committee on the List of Issues for the Fifth Periodic Examination of Ireland](#); IHREC (2020) [Submission to the UN Committee against Torture on the List of Issues for the Third Examination of Ireland](#), p. 7; IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination](#) (October 2019) pp. 22-23; IHREC, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women](#) (January 2017) p. 30; IHREC, [Ireland and the United Nations Convention on the Rights of the Child](#) (December 2015) p. 33.
- <sup>10</sup> IHREC, [Policy Statement on the Electoral Acts and Civil Society Space in Ireland](#) (January 2019). The new Programme for Government includes a commitment to "review our current electoral laws and the conduct of politics in Ireland, to ensure that donations and resources from non-citizens outside the State are not being utilised to influence our elections and political process". See Programme for Government – Our Shared Future (June 2020) p. 134.
- <sup>11</sup> This has the potential to exclude civil society organisations working on the advancement and promotion of human rights from eligibility for charitable status. The Charities Act 2009 also excludes from its purview organisations 'that promote a political cause, unless the promotion of that cause relates directly to the advancement of the charitable purposes of the body' (Section 2). This appears to create a discrepancy whereby, under the Charities Act 2009 a civil society organisation enjoying charitable status is in theory permitted to 'promote a political cause' when related to its charitable activities, whereas the same activity could also meet the definition of 'political purposes' under the Electoral Acts, triggering an obligation to register as a Third Party and to comply with the attendant funding restrictions and reporting

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requirements. This could, in theory, lead to an organisation being in receipt of funds for its activities in a manner that could simultaneously comply with the Charities Act 2009 and fall foul of the Electoral Acts.

<sup>12</sup> See IHREC, [Submission to the United Nations Human Rights Committee on the List of Issues for the Fifth Periodic Examination of Ireland](#) (August 2020) at p. 54.

<sup>13</sup> Human Rights Council (2020), [Report of the Special Rapporteur on the rights of persons with disabilities](#), UN Doc: A/HRC/43/41, paragraphs 10-11.

<sup>14</sup> Sections 7-23 of the Disability Act 2005 have not been commenced except in respect of persons under 5 years of age. These sections of the Act provide for access to assessments of service need.

<sup>15</sup> Section 3-13 of the Education for Persons with Special Educational Needs Act 2004 have not been commenced. These sections of the Act provide a statutory basis for the assessments of education support needs and the development of individual education plans for students with disabilities.

<sup>16</sup> The Government has committed to reforming the Mental Health Act 2001 to improve protection of the rights of mental health service users, in line with the recommendations made by an expert review group in 2015. See [Report of the Expert Group Review of the Mental Health Act, 2001](#).

<sup>17</sup> The Department of Health carried out a public consultation on a general scheme of the Deprivation of Liberty Safeguards Bill in December 2017. Now almost three years later, the draft Bill has not yet been published and there does not appear to be a clear timeframe for its publication. See comments made by the Minister of State at the Department of Health in [Proposed Legislation - Dáil Éireann Debate, Thursday - 26 November 2020: Question 405](#).

<sup>18</sup> The Disability (Miscellaneous Provisions) Bill 2016 proposed to provide for IHREC's IMM role in law. The Bill lapsed upon the dissolution of Parliament in January 2020 and has not been reintroduced under the current government.

<sup>19</sup> The substantial provisions of the Assisted Decision Making (Capacity) Act 2015, which will provide a modern statutory supported decision making framework, have not been commenced over 5 years since the legislation was enacted.

<sup>20</sup> IHREC has urged that there be no undue delay in this regard, given that Ireland was one of only six EU Member States not to have ratified it as of the end of 2019. See IHREC, [Consultation on Terms of Reference and Work Programme for the Joint Oireachtas Committee on Disability Matters: Submission by the Irish Human Rights and Equality Commission, November 2020](#).

<sup>21</sup> EU Commission, [Country Report Ireland 2020](#) (26 February 2020).

<sup>22</sup> Central Statistics Office (2020), [Survey on Income and Living Conditions \(SILC\) 2019](#).

<sup>23</sup> IHREC, [Consultation on Terms of Reference and Work Programme for the Joint Oireachtas Committee on Disability Matters](#) (November 2020) at p. 8 and IHREC, [Comments on Ireland's 16th National Report on the implementation of the European Social Charter](#) (May 2019) at pp. 29-30, 36-37.

<sup>24</sup> IHREC, [Submission to the Committee on Housing, Local Government and Heritage on the General Scheme of the Electoral Reform Bill](#), (February 2021).

<sup>25</sup> As noted by the National Disability Authority in its independent assessments of progress under the strategy. Disabled people living in congregated settings continue to be at greater risk of having a poor quality of life and not being able to exercise their rights, often being separated from their local communities and living in unsuitable, outdated accommodation. See: [Mid-term Review of Progress, The National Disability Inclusion Strategy and Indicators](#), p. 7.

<sup>26</sup> People with disabilities are more than twice as likely to report discrimination relating to housing; over 1.6 times more likely to live in poor housing conditions, such as living in damp housing, lacking central heating or living in an area with neighbourhood problems; and are significantly over-represented in the homeless population, with more than one in four homeless people being a persons with a disability. See Raffaele Grotti, Helen Russell, Éamonn Fahey and Bertrand Maître, [Discrimination and Inequality in Housing in Ireland](#) (June 2018).

<sup>27</sup> Recent results from the Irish Health Survey 2019 are indicative of these poorer outcomes: a quarter of persons with a disability report that their health status is Bad or very bad, compared to the 4% of persons at State population level who report this status; 43% of persons with disabilities report some form of depression, well above the State average of 14%; around a quarter of persons with disabilities report having unmet health care needs due to waiting times, compared to a State average of 14%; and over a third of persons with disabilities aged 55 or over report they have a difficulty with at least one personal care activity. See CSO, [Irish Health Survey 2019 - Persons with Disabilities](#).

<sup>28</sup> The Commission's Annual Poll 2020 (forthcoming) included: 86% of respondents agreed that people with disabilities face barriers in participating fully in Irish society; 85% agreed that more should be done by employers to accommodate disabled employees; 19% of respondents had witnessed or directly experienced disability discrimination in the last 12 months; 45% of people with an experience of disability

discrimination disagreed that they have equal opportunities for getting ahead in life, compared to 28% of respondents generally; and 45% of people with an experience of disability discrimination also disagreed that most of the things that happen in their life are fair, compared to 27% of respondents generally.

<sup>29</sup> IHREC, [Submission to the United Nations Human Rights Committee on the List of Issues for the Fifth Periodic Examination of Ireland](#) (August 2020).

<sup>30</sup> Mental Health Commission, [Annual Report 2018](#) (2019) at p.4.

<sup>31</sup> Mental Health Commission, [Annual Report 2018](#) (2019) at pp. 66, 68; Mental Health Commission, [Mental Health Commission finds one critical and 20 high risk ratings in three mental health centres](#) (2019); Mental Health Commission, [The Administration of Electro-Convulsive Therapy in Approved Centres: Activity Report 2017 & 2018](#) (2020).

<sup>32</sup> IHREC, [The Impact of COVID-19 on People with Disabilities: Submission by the Irish Human Rights and Equality Commission to the Oireachtas Special Committee on COVID-19 Response](#) (June 2020).

<sup>33</sup> IHREC, [The Impact of COVID-19 on People with Disabilities: Submission by the Irish Human Rights and Equality Commission to the Oireachtas Special Committee on COVID-19 Response](#) (June 2020).

<sup>34</sup> See Commission on the Future of Policing, [The Future of Policing in Ireland](#) (2018) and An Garda Síochána's [Equality, Diversity & Inclusion \(EDI\) Strategy Statement & Action Plan 2020–2021](#). Successive Governments have committed to implementing in full all the recommendations of the Commission on the Future of Policing within a four year period from 2019 to 2022. The Commission has noted that the timeframes for delivery of legislation to give effect to these recommendations are unclear, and that the legislation must comply with the Public Sector Equality and Human Rights Duty. See Department of Justice and Equality, [Minister Flanagan announces implementation plan for Commission on the Future of Policing in Ireland Report](#) (December 2018); Government of Ireland, [A Policing Service for the Future: Implementing the Report of the Commission on the Future of Policing in Ireland](#) (2018); and [Programme for Government – Our Shared Future](#) (June 2020).

<sup>35</sup> IHREC, [Submission to the Commission on the Future of Policing](#) (February 2018) and IHREC, [Submission to the United Nations Human Rights Committee on the List of Issues for the Fifth Periodic Examination of Ireland](#) (August 2020), pp. 44–48.

<sup>36</sup> Irish Prison Service, [Annual Report 2019](#) (2020) at p. 26.

<sup>37</sup> Irish Prison Service, [Census Prison Population January 2020 – Cell occupancy – In-Cell Sanitation](#).

<sup>38</sup> IHREC, [Submission to the UN Committee against Torture on the List of Issues for the Third Examination of Ireland](#) (January 2020), at p.10.

<sup>39</sup> IPRT, [Submission to the Human Rights Committee on Ireland's Fifth Periodic Examination under the International Covenant on Civil and Political Rights](#) (2020) at p. 5 and Committee against Torture, [List of issues prior to submission of the third periodic report of Ireland](#) (8 June 2020) at pp. 4–5.

<sup>40</sup> IHREC, [Submission to the United Nations Human Rights Committee on the List of Issues for the Fifth Periodic Examination of Ireland](#) (August 2020) at p. 11.

<sup>41</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, [Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 23 September to 4 October 2019](#) (November 2020) at p. 45.

<sup>42</sup> In 2018, there were 418 reported incidents of prisoner-on-prisoner assaults. See Irish Prison Service, [Assault Figures](#) (2018).

<sup>43</sup> In January 2020, some 589 prisoners were on restricted regimes (restricted to cell for 19–23 hours). See Irish Prison Service, [Census of Restricted Regime Prisoners](#) (January 2020).

<sup>44</sup> See Irish Penal Reform Trust, ['Behind the Door': Solitary Confinement in the Irish Penal System](#) (2018) at p. 7; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, [Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 23 September to 4 October 2019](#) (November 2020).

<sup>45</sup> IHREC, [Submission to the United Nations Human Rights Committee on the List of Issues for the Fifth Periodic Examination of Ireland](#) (August 2020) at pp. 51–52.

<sup>46</sup> Irish Penal Reform Trust, [Progress in the Penal System \(PIPS\): Assessing progress during a pandemic](#), (2020)

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<sup>47</sup> Joint Committee on Justice and Equality, [Access to justice and legal costs: Discussion](#) (27 November 2019). See also Department of Justice and Equality, [Criminal Legal Aid: Overview of current system and potential lessons](#) (July 2018) p. 34.

<sup>48</sup> In 2013, despite the detrimental impact of austerity measures on those with low incomes, the minimum financial contribution for legal representation under the civil legal aid scheme was raised from €50 to €130. While a fee waiver system is provided for in cases of 'undue hardship', there is no automatic entitlement to this waiver. See IHREC, [Submission to the Citizens' Assembly on Gender Equality](#) (2020) at pp. 29-30.

<sup>49</sup> IHREC, [Submission to the Citizens' Assembly on Gender Equality](#) (2020) at pp. 29-30; IHREC, [Submission to the Committee on the Elimination of Racial Discrimination](#) (2019) at pp. 110-111, 142-143; IHREC, [Submission to the Committee on the Elimination of Discrimination Against Women](#) (2017) at pp. 38, 62, 68; and IHREC, [Report to Committee on Economic, Social and Cultural Rights](#) (2015) at pp. 14-15.

<sup>50</sup> Including the Labour Court, the Social Welfare Appeals Office, and the Workplace Relations Commission. See Human Rights Council, [Report of the UN Independent Expert on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona: Mission to Ireland](#) (2011) at p. 4.

<sup>51</sup> Department of Justice, [Action Plan 2021](#), at p. 23 and Dáil Éireann, [Criminal Procedure Bill 2021: Second Stage](#) (10 February 2021)

<sup>52</sup> In this new role, the Commission will prepare and publish monitoring reports and thematic reports evaluating Ireland's overall performance against the State's international obligations such as the EU's Anti-Trafficking Directive, the Council of Europe's Convention on Action against Trafficking (2005) and the Palermo Protocol to the UN Convention against Organised Crime (2000). See IHREC Press release 22 October 2020, [Commission Takes on New Role as Ireland's National Rapporteur on the Trafficking of Human Beings](#).

<sup>53</sup> Due to deficiencies in the formal procedures for victim identification, and the role of An Garda Síochána in being responsible for identifying victims while also having the responsibility for investigating trafficking offences which can create a conflict of priorities. For further information, see IHREC, [Submission to the United Nations Human Rights Committee on the List of Issues for the Fifth Periodic Examination of Ireland](#) (August 2020), at p. 36; IHREC, [Submission to the UN Committee against Torture on the List of Issues for the Third Examination of Ireland](#) (2020), at pp. 40-41; and IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#) (October 2019), at pp. 130-131.

<sup>54</sup> IHREC, [Comments on Ireland's 16th National Report on the implementation of the European Social Charter](#) (May 2019), at p. 5.

<sup>55</sup> These issues resulted in the US Department of State downgrading Ireland to "Tier 2" status in its 2018 and 2019 Trafficking in Persons reports, and to the "Tier 2 Watchlist" in its 2020 report. For the latest report, see US Department of State, [Trafficking in Persons Report](#) (2020), pp. 269-272.

<sup>56</sup> The Farrelly Commission of Investigation was established in 2017 to examine the culture and treatment of individuals with intellectual disabilities in a foster care setting in the South East. It was due to submit its final report by May 2018 but there have been ongoing delays and four extensions have been granted to date. See IHREC, [Commission Calls for 'Grace' Investigation to Respect Human Rights and Equality Obligations for People with Intellectual Disabilities](#) (7 March 2017) and Department of Health, [Written Answers – Foster Care](#) (17 September 2020).

<sup>57</sup> See Committee on the Elimination of Racial Discrimination, [Concluding observations on the combined fifth to ninth reports of Ireland](#) (December 2019) at paras. 17-18; Committee on the Elimination of Discrimination against Women, [Concluding observations on the combined sixth and seventh periodic reports of Ireland](#) (March 2017) at paras. 14-15; Committee against Torture, [Concluding observations on the second periodic report of Ireland](#) (August 2017), at paras. 23-24; Committee on Economic, Social and Cultural Rights, [Concluding observations on the third periodic report of Ireland](#) (July 2015) at para. 18; Human Rights Committee, [Concluding observations on the fourth periodic report of Ireland](#) (August 2014) at para. 11.

<sup>58</sup> The Commission is particularly concerned about the failure to address the historic abuse of children with physical, sensory, intellectual or mental health impairments in institutional settings. Furthermore, 'race' has been excluded as a specific theme from the Terms of Reference of a number of investigations into historic abuses in Irish institutions, including the Commission to Inquire into Child Abuse. While 'race' was included in the final Terms of Reference of the Mother and Baby Homes Commission of Investigation, the finding in the final report that there was no evidence of discrimination against mixed race children, children with disabilities and Traveller children in decisions around adoption has been contested. See IHREC, [Submission to the United Nations Human Rights Committee on the List of Issues for the Fifth](#)



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*Periodic Examination of Ireland* (August 2020) at pp.19-21; The Association of Mixed Race Irish, *Shadow Report to the UN Committee on the Elimination of Racial Discrimination: A Response to Ireland's combined 5th-9th Periodic Report* (2019); Dáil debates, *Commission of Investigation into Mother and Baby Homes: Motion [Private Members]* (24 February 2021); and C. O'Sullivan, *Report found systemic discrimination in mother and baby homes* (RTE – 23 February 2020).

<sup>59</sup> See IHREC, *Submission to the United Nations Committee on the Elimination of Discrimination Against Women* (August 2020) and IHREC, *Submission to the UN Committee against Torture on the List of Issues for the Third Examination of Ireland* (January 2020), p. 26.

<sup>60</sup> Mother and Baby Homes Commission of Investigation, *Final Report* (January 2021).

<sup>61</sup> IHREC, *Submission to the UN Committee against Torture on the List of Issues for the Third Examination of Ireland* (January 2020), at p. 28; *Ireland and the Convention against Torture: Submission to the United Nations Committee against Torture on Ireland's second periodic report* (July 2017), at p. 54.

<sup>62</sup> IHREC, *Taoiseach's Mother and Baby Homes Apology Must Mark Start of Human Rights Compliant Redress and Restitution Process*, press release, 12 January 2021. See also, Irish Human Rights and Equality Commission: *Submission to the United Nations Committee on the Elimination of Discrimination Against Women on the follow-up procedure to Ireland's combined sixth and seventh periodic report* (August 2020) at p. 2-9.

<sup>63</sup> IHREC, *Dignified Burials Law Must Be Part of Transitional Justice for Mother and Baby Home Victims* (February 2021).

<sup>64</sup> Department of Justice, '*Minister McEntee launches findings of public consultation on Hate Speech and Hate Crime and commits to drafting new Legislation*', press release, 17 December 2020.

<sup>65</sup> Compared to 'White Irish' respondents, Travellers are almost ten times as likely, Black people of Irish nationality are twice as likely; and Black people of other nationalities are five times as likely to experience discrimination in seeking work. Black people of Irish nationality are 3.4 times as likely to experience discrimination in the workplace; and Black people of other nationalities are over 2.5 times more likely to experience discrimination in the workplace. See McGinnity et al., *Who Experiences Discrimination in Ireland?*, pp. 35-36 and IHREC, *Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report* (October 2019), p. 71. The CSO also published data in July 2019 demonstrating that 14.4% of 'non-Irish persons' and 19.8% of 'persons from non-White ethnic backgrounds' reported experiencing workplace discrimination in Ireland. See CSO, *Equality and Discrimination: Quarter 1 2019* (04 July 2019).

<sup>66</sup> IHREC, *Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report* (October 2019), p. 72.

<sup>67</sup> Department of Justice, *Action Plan Against Racism for Ireland to be drawn up by new independent Anti-Racism Committee* (27 January 2021).

<sup>68</sup> The Commission consulted with the Anti-Racism Committee in October 2020.

<sup>69</sup> IHREC, *Submission to Citizen's Assembly* (March 2020).

<sup>70</sup> See Oireachtas *Resolution* on the Establishment of the Citizens' Assembly, July 2019. The Assembly held its inaugural meeting in January 2020 and has undertaken to produce a report for Parliament within twelve months of first convening.

<sup>71</sup> *Legislation Programme: Spring Session 2019*, 15 Jan 2019.

<sup>72</sup> See IHREC (2018) *Observations by the Irish Human Rights and Equality Commission on the General Scheme of a Bill Entitled Health (Regulation of Termination of Pregnancy) Bill 2018*, Sep 2018.

<sup>73</sup> Valerie Ryan, 'All GPs signed up for abortion services not constantly available', Irish Medical Times (1 April 2020)

<sup>74</sup> Website of the Health Service Executive at <https://www2.hse.ie/conditions/abortion/how-to-get-an-abortion/hospitals-providing-services.html>. Note, the 2018 Act allows medical practitioners to conscientiously object to carrying out a termination of pregnancy. The Commission has stressed that this provision should avoid creating or replicating barriers to access to abortion particularly for vulnerable and marginalised groups of women and girls. See IHREC, *Submission to the United Nations Human Rights Committee on the List of Issues for the Fifth Periodic Examination of Ireland* (August 2020) at pp. 42-43.

<sup>75</sup> For further information see IHREC, *Submission to the United Nations Committee on the Elimination of Discrimination Against Women on the follow-up procedure to Ireland's combined sixth and seventh periodic report* (August 2020) at p. 11.

<sup>76</sup> Per section 7 of the Act.

<sup>77</sup> Eurostat (2018) *Women in the EU earned on average 16% less than men in 2016*, 8 Mar 2018.

<sup>78</sup> *University Women of Europe (UWE) v. Ireland*, Complaint No. 132/2016 (June 2020).

<sup>79</sup> Department of Children, Equality, Disability, Integration and Youth, [Minister O’Gorman commits to introducing strengthened Gender Pay Gap legislation](#), (Press Release, 28 December 2020). The Gender Pay Gap Information Bill 2019 was published in April 2019. The Bill lapsed with the dissolution of the Dáil in January 2020. The Bill has now been restored. The bill proposes to require organisations to report on the gender pay differentials in their organisations, setting out pay differences between female and male employees

<sup>80</sup> Ireland ratified the Convention with reservations to the provisions on state compensation to domestic violence victims and jurisdiction. See Council of Europe Portal (2019) [Reservations and Declarations for Treaty No.210 - Council of Europe Convention on preventing and combating violence against women and domestic violence](#).

<sup>81</sup> In December 2020, the [Harassment, Harmful Communications and Related Offences Act 2020](#) was signed into law, to provide new criminal offences for the recording, posting, distribution or publication of intimate images without consent. President of Ireland, Press Release: [President Higgins signs Harassment, Harmful Communications and Related Offences Bill 2017](#), December 2020.

<sup>82</sup> IHREC, [Submission to the UN Committee against Torture on the List of Issues for the Third Examination of Ireland](#) (January 2020), p. 32; IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland’s Combined 5th to 9th Report](#) (October 2019), p. 103; IHREC, [Comments on Ireland’s 16th National Report on the implementation of the European Social Charter](#) (May 2019), p. 19.

<sup>83</sup> From 12 March to 3 November 2020, there was a total of 22,540 reported domestic violence incidents, an increase of more than 3,000 cases when compared to the same period in 2019. As of December 2020, there had been 217 prosecutions for domestic violence during the pandemic. See Dáil Éireann, [Parliamentary Debates](#) (10 December 2020) at p. 442.

<sup>84</sup> IHREC, [Submission to Citizen’s Assembly](#) (March 2020).

<sup>85</sup> IHREC, [Submission to the Joint Committee on Key Issues affecting the Traveller Community](#), (February 2021); IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland’s Combined 5th to 9th Report](#), p.3.

<sup>86</sup> Recent research by the EU Fundamental Rights Agency (FRA) highlights disadvantage and discrimination experienced by Travellers across these domains. In employment, 17% of Traveller women and 13% of Traveller men have paid jobs compared to 68% of Irish women and 80% of men generally. Regarding education, 70% of Travellers aged 18-24 years finished lower secondary education (the junior second level cycle up to junior certificate), and are not in further education or training, compared to 5% of young Irish people generally. In respect of health, more Irish Travellers have (severe) limitations due to health problems (29%) than people generally in Ireland (17%), and Travellers’ life expectancy is 8 years shorter than people generally in Ireland. Regarding accommodation, 24% of Travellers face severe housing deprivation, 30 times more than people generally in Ireland (0.8%). In terms of poverty, 40% live in households that have (great) difficulties to make ends meet, compared to 8% for people generally in Ireland. Some 28% of Traveller children in Ireland grow up in severe material deprivation. See EU FRA, [Travellers in Ireland: Key Results from the Roma and Traveller Survey 2019](#).

<sup>87</sup> Shannen Enright, Frances McGinnity Ivan Privalko, Helen Russell, [Covid-19 And Non-Irish Nationals In Ireland](#) (December 2020).

<sup>88</sup> The State’s recognition of Traveller ethnicity was reflected in a statement made by An Taoiseach Enda Kenny

TD in Dáil Éireann. See Dáil Éireann, [Traveller Ethnicity: Statements](#) (1 March 2017).

<sup>89</sup> *Mongans v. Clare County Council* [2017] IEHC 709, (Unreported, High Court, Eager J., 27 October 2017).

<sup>90</sup> See IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland’s Combined 5th to 9th Report](#) (October 2019) at pp. 80-81.

<sup>91</sup> European Commission against Racism and Intolerance, [ECRI Report on Ireland \(fifth monitoring cycle\)](#) (June 2019), p. 25.

<sup>92</sup> European Commission against Racism and Intolerance, [ECRI Report on Ireland \(fifth monitoring cycle\)](#) (June 2019), at p. 10; Committee on the Elimination of Racial Discrimination, [Concluding observations on the combined fifth to ninth reports of Ireland \(January 2020\)](#), at para. 28.

<sup>93</sup> The Commission welcomes the full draw down of the Department’s 2020 Traveller accommodation budget, but notes that of the 116 new accommodation units provided, 82 were ‘COVID-19 mobile units’,

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of which, 43 were for 'self-isolation purposes', 16 were 'group housing units', 3 were 'mobiles' and 15 were 'acquisitions'. This means that almost one third of new units provided in 2020 were mobiles for self-isolation purposes, rather than secure and adequate housing that will meet the accommodation needs of Traveller families in the medium to long term. In addition, nine local authorities had not drawn down any funding as of October 2020, indicating that inconsistencies between local authorities likely remain in the delivery of Traveller accommodation, despite the budget as a whole being drawn down in full. See Minister for Housing, Local Government and Heritage in [Traveller Accommodation, Dáil Éireann Debate, Wednesday - 27 January 2021](#) and Minister for Housing, Local Government and Heritage in [Traveller Accommodation, Dáil Éireann Debate, Wednesday - 21 October 2020](#).

<sup>94</sup> The statutory equality reviews focus on failures nationally to draw down the ring-fenced capital budget for Traveller-specific accommodation and oblige local authorities to examine whether any such failings may be due to discriminatory practices or policies under the Housing (Traveller Accommodation) Act 1998 and the Equal Status Acts. See IHREC, [Human Rights and Equality Commission Launches National Review into Council Traveller Accommodation Provision](#) (28 June 2019).

<sup>95</sup> IHREC, [Submission on the White paper on Direct Provision](#), (December 2020). See also, IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination](#), (October 2019). The lack of available spaces in Direct Provision has led to a growing reliance on emergency accommodation, with 1,382 people being accommodated in hotels and guesthouses in September 2020, Department of Justice and Equality, [Written Answers: Direct Provision System](#) (15 September 2020).

<sup>96</sup> As of 24 October 2020, there were 313 cases of Covid-19 reported in direct provision accommodation, representing 4% of all direct provision residents compared to a virus prevalence rate of 1.3% for the rest of the population. See N. Baker, [Direct provision system 'magnified' issues faced by children during Covid-19 lockdown](#) (Irish Examiner, 10 December 2020). The Irish Refugee Council surveyed 5.4% of the population of people living in Direct Provision and emergency accommodation in 2020. 50% of respondents were unable to socially distance themselves from other residents during the pandemic; 42% of respondents stated they shared a room with a non-family member; and 46% of respondents shared a bathroom with a non-family member. Irish Refugee Council, ["Powerless" Experiences of Direct Provision During the Covid-19 Pandemic](#) (August 2020). See also, National Economic and Social Council, [Secretariat Covid-19 Working Paper Series The Impacts of Covid-19 on Ethnic Minority and Migrant Groups in Ireland](#) (6 January 2021) at p. 10. See also Irish Refugee Council, ["Powerless" Experiences of Direct Provision During the Covid-19 Pandemic](#) (August 2020) at p. 72. Regarding restrictions to access to education for children, see Ombudsman for Children's Office, [Direct Division: Life in Lockdown: Children's views and experiences of living in Direct Provision during the Covid-19 pandemic](#) (2020) at p. 10.

<sup>97</sup> Department of Children, Equality, Disability, Integration and Youth, [A White Paper to End Direct Provision and to Establish a New International Protection Support Service](#), (February 2021). This white paper was drafted following the publication of recommendations by an Advisory Group: Department of Justice, [Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process](#) (October 2020).

<sup>98</sup> IHREC, [White Paper Submission Direct Provision](#) (December 2020). Para. 1.2.

<sup>99</sup> The median processing time for all international protection applications determined in 2020, by the International Protection Office (IPO) was 17.6 months and 12.7 months for prioritised applications. See Dáil Éireann Debate, [Written Answers: International Protection System](#), 27 January 2021

<sup>100</sup> Department of Children, Equality, Disability, Integration and Youth, [A White Paper to End Direct Provision and to Establish a New International Protection Support Service](#), (February 2021), section 3.5

<sup>101</sup> IHREC, [White Paper Submission Direct Provision](#) (December 2020)

<sup>102</sup> The Commission has serious concerns regarding retrogressive measures on family reunification introduced in the International Protection Act 2015 that limit the statutory right to family reunification to members of the nuclear family, and requires family reunification applications to be made within 12 months of the grant of refugee or subsidiary protection status – a timeframe that is impossible for many refugees. The Act also excludes refugees who acquire citizenship by naturalisation from its purview. IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#) (October 2019) at p. 11.

<sup>103</sup> IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#) (October 2019) at pp. 28, 78.

<sup>104</sup> Department of Housing, Planning & Local Government (2020) [Homelessness Report December 2020](#).



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<sup>105</sup> IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020) at p. 20.

<sup>106</sup> In 2017, the European Committee of Social Rights found Ireland in violation of Article 16 of the Charter due to its failure to take sufficient and timely measures to ensure the right to housing of an adequate standard for families living in local authority housing. In 2019, it concluded that the State is still not in conformity with Article 16 as it has not been established that there is a sufficient supply of adequate housing for vulnerable families. See [International Federation for Human Rights \(FIDH\) v. Ireland](#), Complaint No. 110/2014 and European Committee of Social Rights, [Conclusions 2019: Ireland](#) (March 2020) at p. 33.

<sup>107</sup> IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020) at p. 21. See also, IHREC, [Comments on Ireland's 16th National Report on the implementation of the European Social Charter](#) (May 2019) at p. 12; Ombudsman for Children's Office, [No Place Like Home: Children's views and experiences of living in Family Hubs](#) (2019) and IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#) (October 2019) at p. 93.

<sup>108</sup> One or more of: leaking roof, damp walls, floor or foundation, rot in windows frames or floor; dark rooms; no central heating; and no double glazing. IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (June 2018) at pp. 42-43.

<sup>109</sup> IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (June 2018) at pp. 52, 54.

<sup>110</sup> According to the Central Statistics Office, "in households with a confirmed COVID-19 case, 19% were in overcrowded homes (defined as over 1 person per room) compared to the general population where 1 in 10 people live in overcrowded houses". See CSO, [A Profile of COVID-19 in Ireland - Using Census 2016 Household Data to Analyse COVID-19 Cases from March to November 2020](#).

<sup>111</sup> O'Carroll, Duffin, Collins, [Saving Lives in the time of COVID-19 Case Study of Harm Reduction, Homelessness and Drug Use in Dublin](#), Ireland (LSE, 2020)

<sup>112</sup> IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020) at p. 3.

<sup>113</sup> IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020) at p. 26.







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