



Pavee Point Traveller and Roma Centre: Response to ECRI List of Questions (July 2024)

Pavee Point Traveller and Roma Centre

Pavee Point Traveller and Roma Centre is a national NGO that works to promote Traveller and Roma human rights in Ireland through research, policy development, advocacy, and collective community action. We work at national, regional, and international levels to address the needs of Travellers and Roma as minority ethnic groups experiencing exclusion, discrimination and racism. Our work involves a community work approach based on the principles of human rights, participation, equality and interculturalism.

Travellers and Roma in Ireland

In 2024, Travellers and Roma continue to be among the most marginalised groups in Ireland. As minority ethnic groups, Travellers and Roma experience persistent racism and discrimination on the basis of ethnicity, gender and other grounds. Travellers and Roma continue to experience inequality of access, participation and outcomes across all policy areas, including, health, education and employment.¹

Although we recognise Roma as an umbrella term, we have referred to Travellers and Roma in this note – in order to clearly identify differing experiences. Travellers refers to the approx. 36,000 Irish Travellers living in Ireland.² Roma refers to those who identify as Roma in Ireland, approx. 16,049 Roma people.³ This includes migrants and second and third generation Roma, many of whom are Irish citizens, many of whom live in poverty due to lack of access to work and restrictive social welfare measures.⁴

1. Effective Equality and Access to Rights

1.1 Equality bodies

The Irish Human Rights and Equality Commission is Ireland's national human rights and equality institution established under the Irish Human Rights and Equality Commission Act 2014 (IHREC Act 2014). A provision in this legislation, Section 42, states: "all public bodies in Ireland have responsibility to promote equality, prevent discrimination and protect the

¹ <https://www.cso.ie/en/releasesandpublications/ep/p-cpp5/census2022profile5-diversitymigrationethnicityirishtravellersreligion/keyfindings/>

² Census 2016 enumerated 30,987 Travellers living in Ireland. This remains lower than the figure of 36,244 from the All Ireland Health Study, see Kelleher et al., *Our Geels All Ireland Traveller Health Study* (Dublin: University College Dublin and Department of Health and Children, 2010).

³ <https://www.cso.ie/en/releasesandpublications/ep/p-cpp5/census2022profile5-diversitymigrationethnicityirishtravellersreligion/keyfindings/>

⁴ According to Census, 2022 there are approximately 32,949 Travellers in Ireland, however this is considered an undercount as the All Ireland Traveller Health Study (AITHS) established the Traveller population at 36,224 in the Republic of Ireland (Kelleher et al., 2010). Census 2022, reported an estimated 16,049 Roma, with this was the first time Roma ethnicity was included in the Census form. <https://www.cso.ie/en/releasesandpublications/ep/p-cpp5/census2022profile5-diversitymigrationethnicityirishtravellersreligion/irishtravellers/>

human rights of their employees, customers, service users and everyone affected by their policies and plans. The Irish Human Rights and Equality Commission Act 2014 held the promise of new energy from the State with its provision for a statutory duty on public bodies to have regard to the need to eliminate discrimination, promote equality of opportunity, and protect human rights in the implementation of all of their functions.

The Public Sector Equality and Human Rights Duty has now been in effect for ten years. There is limited evidence, to date, of the Duty having been widely implemented in the public sector nor of the Duty having delivered on its potential to create a shift in culture within public bodies and the delivery of public services. It is now timely to review and further develop the leverage that can be applied behind the Duty to ensure its implementation and its implementation to the standards set by the IHREC.

It is the experience of Pavee Point, that where the Duty is being implemented, full and effective implementation of the Duty is being hindered by lack of data, and in particular the failure to introduce a universal ethnic identifier. This is particularly evident in the report step of the Duty.

Proposed Recommendations:

- Stronger sanctions should be provided in the equality legislation for failure to implement the Duty to the appropriate standard and IHREC should be afforded the necessary powers of enforcement.
- Implement the findings and recommendations of the Irish Human Rights and Equality Commission (IHREC) equality reviews of Traveller accommodation including regarding the provision of Traveller specific and culturally appropriate accommodation for Traveller families.
- Expand provisions in relation to the report step of the Duty to include a requirement to strengthen data systems to enable this step, including introduction of a universal ethnic identifier in line with a human rights based approach.
- An awareness campaign should be developed across the public sector in relation to the Duty, its requirements and its potential, with Government Departments acting to ensure public bodies that fall under their remit are guided and instructed to implement the Duty.

Workplace Relations Commission

The incorporation of the former Equality Tribunal as a part of the Workplace Relations Commission has also acted as an impediment to access to justice. The Workplace Relations Commission (WRC) is an independent, statutory body which was established on 1st October 2015 under the Workplace Relations Act 2015 (No. 16 of 2015) and does not enjoy any profile within either the Traveller or Roma communities as a venue for equality issues. There is a risk of dilution and loss, in this amalgamated setting, of the specialist expertise required to hear and decide on cases of discrimination. The Workplace Relations Commission has not been experienced by Travellers as an accessible venue, whereas the Equality Tribunal had served this purpose well.

The Workplace Relations Commission has become an increasingly formal venue, in particular given the level of legal representation on the side of the respondent. It has been become

increasingly adversarial, with a loss in the investigative function formerly deployed by the Equality Tribunal. The investigative function is key in contexts of inequality of arms between respondent and complainant.

There is a lack of follow-up of decisions made by the Workplace Relations Commission in cases of discrimination, in particular where a course of action is required from the respondent. This limits and undermines the impact of the legislation.

Proposed Recommendations:

- Repeal Section 19 of the Intoxicating Liquor Act 2003 and bring all cases under the Equal Status Acts under the one specialist venue.
- Make provision for follow-up of decisions in cases of discrimination with requirements on respondents to report to the body that made the decision on the steps taken, and powers for that body to seek further action and redress where such steps as required are not taken.
- Remove jurisdiction for equality cases from the Workplace Relations Commission and re-establish a venue akin to the Equality Tribunal with a clear investigative function.

2. Education

The Government made several educational commitments in its Programme of Government 2020,⁵ including to develop a National Traveller Education Strategy and to further develop access programmes to Higher and Further education for students from disadvantaged groups, including members of the Traveller community, those in direct provision and those who are socio-economically disadvantaged. The consultation process for the National Traveller and Roma Education Strategy is complete⁶ and a draft Strategy is being developed. It is crucial that the Strategy is accompanied by a robust implementation and monitoring framework, in addition to resources to address the educational disadvantage of Travellers and Roma at all educational levels.

We welcome a number of developments, including: the National Council for Curriculum and Assessment's 2019 curriculum audit of Early Years, Primary and Post-Primary levels on Traveller history and culture;⁷ Recommendations in 'A Study into the Effectiveness of the Anti-Bullying Procedures on Traveller and Roma Pupils' Experiences in the School System' report;⁸ the Department of Education's report, Cineáltas: Action Plan on Bullying,⁹ and the National Access Plan: A strategic Action Plan for Equity of Access, Participation and Success in Higher Education 2022-2028.¹⁰ However, none of the mainstream educational strategies contain actions aimed directly at increasing Traveller and Roma participation at early years, primary or post-primary levels despite their significant educational disadvantage at all levels.

⁵ Department of the Taoiseach, Programme for Government: Our Shared Future- 2020-2025 <https://www.gov.ie/en/publication/7e05d-programme-for-government-our-shared-future/>

⁶ Traveller and Roma Education Strategy <https://www.gov.ie/en/consultation/2545f-traveller-and-roma-education-strategy/>

⁷ Traveller culture and history in the curriculum: a curriculum audit, NCCA, 2019 <https://ncca.ie/en/resources/traveller-culture-and-history-in-the-curriculum-a-curriculum-audit>

⁸ A study into the effectiveness of the Anti-Bullying Procedures on Traveller and Roma pupils' experiences in the school system, Dr. Maeve Dupont, DCU Anti-Bullying Centre, March 2022, available at <https://antibullyingcentre.ie/wpcontent/uploads/2022/03/A-study-into-the-effectiveness-of-the-Anti-Bullying-Procedures-on-Traveller-and-Roma-pupils-experiences-in-the-school-system.pdf>.

⁹ Department of Education, Cineáltas: Action Plan on Bullying, 1 December 2022, <https://www.gov.ie/en/publication/52aaf-cinealtas-action-plan-on-bullying/>.

¹⁰ National Access Plan: A Strategic Action Plan for Equity of Access, Participation and Success in Higher Education 2022-2028. <https://www.gov.ie/pdf/?file=https://assets.gov.ie/233024/9771358b-667a-4172-867f-371d7e314f46.pdf#page=null>

While we are conscious of the progress with collecting and using ethnic data in further and higher education, we fear that this progress will fall short in the absence of a clear framework, targets and ethnic data which would promote and track retention and completion rates at other education levels, and in particular at post-primary level.

Given the current policy direction towards digitalisation and service providers increased use of and reliance on technology through the COVID-19 pandemic, the human rights implications of digitalisation – including risks, benefits, and protections – need to be high on the agenda. Key to this will be ensuring digital inclusion and leaving no one behind, by starting with those most marginalised and addressing the digital divide for minority ethnic groups, including Traveller and Roma women. In the context of public services, “digital first” cannot mean digital only, and investment will need to continue in non-digital service provision. Leaving no one behind means including those most at the margins and working in partnership with Travellers and Roma in the digitalisation process.

Proposed Recommendations:

- Urgently complete development of the National Traveller and Roma Education Strategy and ensure the Strategy has robust implementation and monitoring framework with associated dedicated targets, indicators and resources to address the educational disadvantage of Travellers and Roma at all educational levels.
- Include those most at the margins in digital literacy and digitalisation process in service provision, work in partnership with Travellers and Roma, and continue to invest in non-digital service provision.

2. Hate Speech and Hate Motivated Violence

Hate Speech

The Government undertook a consultation process in 2019-2020 regarding hate speech and crime legislation. This resulted in the production of a General Scheme Criminal Justice (Hate Crime) Bill 2021 which was opened up for further consultation in summer of 2021. Pavee Point, along with other civil society organisations, welcomed the consultation process, as well as the draft Heads of Bill, which for the first time specifically includes Traveller ethnicity. To date, the Bill has passed through the parliamentary (Dáil) level and has reached the Senate (Seanad) for further approval, amendments or rejection.

Proposed Recommendations:

- Develop and implement an awareness raising campaign with the general population about anti- Traveller and anti-Roma racism and provide support towards the celebration of Traveller and Roma cultures on a permanent and ongoing basis.
- Develop and deliver positive action measures to build better relations between Travellers, Traveller organisations and local media, including measures to challenge negative stereotyping of Travellers and Roma, including Traveller and Roma women, and improved representation by Traveller and Roma in local media.
- Ensure that the inclusion of Traveller culture and history in school curriculum takes place in active consultation with Traveller organisations and acts as a precedent for further inclusion of all the cultures which are part of the diversity in Irish society.

- Consider the introduction of a dedicated Action Plan Against Hate alongside the legislation.
- Urgently ensure the implementation of the ‘Online Safety and Media Regulation Act 2022 and the implementation of online safety codes via the new media commission.

National Action Plan Against Racism (NAPAR)

We welcome the publication of the new and much needed NAPAR in March 2023,¹¹ and its explicit inclusion of Travellers as being directly covered by all provisions and recommendations in the plan and the acknowledgement of the intersectionality between racism and multiple forms of oppression, in the plan. The NAPAR’s publication is especially pertinent for Travellers, Roma and other minority communities at this time given the recent far-right incited riots in November 2023¹². We welcome that the plan commits to the collection of ethnically disaggregated data without which it is difficult to fully quantify the prevalence and impact of racism. We call on the State party to ensure the involvement of Traveller and Roma organisations in the plan’s monitoring and implementation structures, and to ensure accountable implementation of Action 3 of the plan which provides for “taking steps to ensure that measures to eliminate the dissemination of hate speech online are effective and have regard to the local context in Ireland.”

Proposed Recommendations:

- Ensure the involvement of Traveller and Roma organisations in the National Action Plan Against Racism (NAPAR) monitoring and implementation structures.
- Ensure accountable implementation of Action 3 of the NAPAR which provides for “taking steps to ensure that measures to eliminate the dissemination of hate speech online are effective and have regard to the local context in Ireland.”

3. Integration and Inclusion

The National Traveller and Roma Inclusion Strategy (NTRIS) 2024-2028

The successor draft NTRIS Strategy and associated Action Plan has been made available to the NTRIS Steering Group Members for feedback. The draft successor Strategy is marked with some improvements from the previous strategy, including the development of an Action Plan, and a proposed stronger implementation framework, which is to be welcomed. There are some positive actions within both documents, however, NTRIS requires committed resources from DCEDIY, and other Departments linked to targets and timelines if it is to be successful in delivery on key commitments and priority actions. Further, there is a need to ensure an outcomes focused approach with many actions seeking to only address inequality of access or participation, not outcomes. This must be addressed in advance of finalisation.

Proposed Recommendations:

- Publish the now overdue NTRIS, ensuring the Strategy has robust implementation and monitoring framework with associated dedicated targets, indicators and resources from all government departments.

¹¹ National Action Plan Against Racism, 2023 <https://www.gov.ie/en/publication/14d79-national-action-planagainst-racism/>

¹² <https://www.paveepoint.ie/statement-on-attack-and-riots-in-dublin/>

Topics Specific to Each Country

Health

Travellers and Roma continue to experience stark health inequalities when compared to the general population¹³, and the COVID-19 pandemic has had a disproportionate impact, with both communities experiencing significantly higher rates of mortality and morbidity¹⁴. As a result of the COVID-19 pandemic and the recognition of the urgent need to address Roma health inequalities, a positive development has been the funding of health-workers working with Roma. To be effective, this model requires Roma health posts across the country and a nationally coordinated approach based on the social determinants of health and strong links with mainstream services.

We acknowledge the publication of the National Traveller Health Action Plan (NTHAP) 2022-2027 and associated resources and implementation structures. This is an ambitious plan and holds potential to have an impact on Traveller health experiences and outcomes, if fully resourced and implemented. However, since the launch of the Plan no further investment through incremental core funding has been made available.

Proposed Recommendations:

- Fully implement and resource the National Traveller Health Action Plan.
- Implement ethnic equality monitoring across all routine administrative data collection systems to support the development of health indicators to monitor Traveller and Roma access, participation and outcomes in health.
- Continue supporting and further developing both mainstream and special measures to address Roma health inequalities.
- In line with the State's 'Programme for Government: Our Shared Future 2020-2025', develop a Traveller and Roma Mental Health Action Plan.

Employment

High levels of unemployment persist amongst Travellers and Roma. This is due to a range of factors including low education attainment, racism and discrimination and being placed in a poverty trap resulting from social welfare issues. While acknowledging the targeted employment supports for minority ethnic groups in the State's 'Pathways to Work Strategy', including the mention of Travellers in the 'Working for All-Leaving No One Behind', chapter, implementation of these commitments has been slow. Further a key commitment in the Programme for Government to develop a Traveller and Roma Training, Employment and Enterprise Strategy has yet to be realised. There is an urgent need to ensure implementation of these commitments to deliver and support a range of assistive and targeted measures to increase employment, training and apprenticeship opportunities for Travellers and Roma, to address the significant levels of discrimination in employment faced by Travellers and Roma.

¹³ <https://www.hse.ie/eng/services/publications/socialinclusion/national-traveller-health-action-plan-2022-2027.pdf>

¹⁴ <https://www.hpsc.ie/a-z/respiratory/coronavirus/novelcoronavirus/surveillance/covid-19annualreports/First%20year%20of%20the%20COVID-19%20pandemic%20in%20Ireland.pdf>

Proposed Recommendations:

- Urgently ensure implementation of the State commitments from the “Programme for Government: Our Shared Future 2020-2025” including the development and implementation of a comprehensive Traveller and Roma Training, Employment and Enterprise Strategy.
- Develop a gender proofed National Traveller Employment and Enterprise Strategy as part of the new Pathways to Work strategy.

Accommodation

Travellers continue to be overrepresented in homelessness figures, with 39% of Travellers meeting European definition of homelessness (European Typology of Homelessness and housing exclusion (ETHOS)).¹⁵ Local Authorities continuously fail to meet their legal duty to ensure adequate, safe and culturally appropriate accommodation for Travellers and - despite the Traveller accommodation budget having slowly increased - in the past, a significant portion of Traveller accommodation budgets remained unspent by Local Authorities. For the first time since 2014, ‘full spend of the Traveller accommodation budget has been achieved for the past several years - 2020, 2021 and 2022’.¹⁶ However, it should be noted that the budget was spent on maintenance of existing Traveller accommodation and COVID-19 mitigation measures; no new accommodation or units were provided.

In 2019, an independent Expert Group on Traveller Accommodation¹⁷ made 32 recommendations for the Government, including a recommendation to overhaul all relevant legislation and policies which impact on accommodation provision for Travellers. A Programme Implementation Board was established to progress the implementation of the recommendations of the Expert Review Group. We recommend that the State ensure full implementation of all 32 recommendations by the Independent Expert Group on Traveller accommodation through the Implementation Board with a time lined implementation plan, tangible targets, corresponding accountability measures and budget.

Inadequate and insecure housing, sanitary and living conditions also expose many Roma, particularly Roma women and children to further health and safety hazards and interruptions in school attendance.

The current draft NTRIS II Strategy and Action Plan accommodation actions are limited. There are no Roma specific accommodation actions and proposed actions will not address significant accommodation or homelessness as only focus on the provision of information and/or interpretation.

Proposed Recommendations:

¹⁵ Pavee Point (2021) The Traveller Community and Homelessness <https://www.paveepoint.ie/wp-content/uploads/2015/04/Pavee-Point-Traveller-Homelessness-Advocacy-Paper-Oct2021.pdf> - European Typology of Homelessness and Housing Exclusion-ETHOS) - this includes the large number of Travellers who experience ‘hidden homelessness’ in overcrowded living conditions

¹⁶ <https://debatesarchive.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2023032100085#WRX00800>

¹⁷ Traveller Accommodation Expert Review (2019) <https://www.paveepoint.ie/wp-content/uploads/2019/07/Expert-Review-Group-Traveller-Accommodation.pdf>

- Implement all recommendations issued by the independent Expert Group on Traveller Accommodation with a time lined implementation plan, tangible targets, corresponding accountability measures and budget.
- Address the homelessness and housing crisis among Roma by introducing clear actions and an associated implementation plan and resources.
- Include Traveller and Roma specific targets in wider Government policy responding to homelessness.

Habitual Residence Requirement

European Directive 2004/38 is transposed into Irish law under the European Communities (Free Movement of Persons) Regulations 2015 SI 548/2015, which sets out the conditionality of free movement. Essentially the Directive outlines that the right to reside is met usually through engaging in economic activity or accessing one's own resources. A person cannot be deemed to be habitually resident unless it can be established that they have a right to reside in the State. A person must meet the habitual residence condition in order to access non-contributory benefits, including child benefit, job seekers allowance and access to many employment and training supports and access to women's refuges.¹⁸

The Department of Employment Affairs and Social Protection states that the habitual residence condition "is a requirement, amongst others, for receipt of certain social protection payments and applies equally to all applicants and beneficiaries, regardless of nationality or ethnic background."¹⁹ However it is widely recognised that policies that may appear neutral can have a disproportionate and discriminatory impact on particular groups.²⁰ In practice the lack of access to employment for Roma, combined with the difficulties in having appropriate documentation make it very hard for many Roma to fulfil the requirements of the right to reside and habitual residence.²¹ It is in this context that up to 20% of Roma in Ireland are living in extreme poverty.²² In recognition that children are living in poverty in this context, the United Nations Committee on the Rights of the Child has recommended that the State make Child Benefit payments a universal payment that is not contingent of the fulfilment of Habitual Residence Condition.²³ While Ireland states that it is

¹⁸ Five factors are considered to determine habitual residence:

1. the length and continuity of residence in the state or in any other particular country; 2. the length and purpose of any absence from the state; 3. the nature and pattern of the person's employment; 4. the person's main centre of interest; 5. the future intentions of the person concerned as they appear from all the circumstances.

Social Welfare Consolidation Act 2005, s. 246(4), as inserted by the Social Welfare & Pensions Act 2007, s.30. Available at: <http://www.irishstatutebook.ie/eli/2007/act/8/enacted/en/print#sec30>

¹⁹Department of Social Protection, 'Habitual Residence Condition' (Information Leaflet) (2016) Available at: <http://www.welfare.ie/en/downloads/sw108.pdf>

²⁰United Nations Committee on Economic Social and Cultural Rights, 'General comment No. 20: Non-discrimination in economic, social and cultural rights' (2009) E/C.12/GC/20, para 10(b).

²¹When respondents in the National Roma Needs Assessment were asked about the status of all adults in the household 34.8% were reported as having the right to reside, 25.5% (n=159) were reported as not having the right to reside and the highest proportion of answers were don't know of 38.5%. 47.3% (n=163) were reported as being habitually resident, 25.7% were reported as not being habitually resident and a significant proportion of answers were don't know at 26.9%. Pavee Point Traveller and Roma Centre & Department of Justice and Equality, *Roma in Ireland – A National Needs Assessment*, 77.

²² Pavee Point Traveller and Roma Centre & Department of Justice and Equality, *Roma in Ireland – A National Needs Assessment*, 61.

²³United Nations Committee on the Rights of the Child, 'Concluding observations', para 69 (f).

simply complying with the European Directive 2004/38, this is negatively impacting human rights, especially Roma children's rights.

Proposed Recommendations:

- Ensure that the EU Directive 2004/38 does not have a disproportionate impact on Roma, especially Roma women and children, including through the adoption of special and targeted measures.
- Make Child Benefit payments a universal payment that is not contingent of the fulfilment of Habitual Residence Condition.
- Set clear and time bound targets specific to poverty reduction among Traveller and Roma children in both targeted policy measures (National Traveller and Roma Inclusion Strategy) and mainstream policy measures.

Ethnic Equality Monitoring

It is vital that the Government collect, analyse and disseminate disaggregated data by ethnicity and gender across all relevant administrative systems in line with human rights standards, and use this data to inform Ethnic Equality Monitoring and equality proof state policies, budgets and programming. In line with state policy and legislation, the Government has committed to developing a system of ethnic data collection across state departments and agencies, however, progress has been incredibly slow, with resistance from some departments and agencies.

We welcome the development of the forthcoming National Equality Data Strategy and understand it is under consideration by the Minister. It is important that the Strategy focuses on measurable impacts, and ask that it be urgently and fully resourced and implemented. As part of this Strategy, the full and effective development and implementation of ethnic equality monitoring (in line with human rights standards) across all relevant State departments and public bodies, must be ensured, to improve the ability to monitor the impact of policies and initiatives. We ask that the State ensure the strategy is in place urgently (as expected to cover 2023-2027, as committed to by the State) and that it has a robust implementation and monitoring plan with clear targets, indicators, timeframes and budget lines, with actions being resourced and implemented by all government departments and relevant statutory agencies. It is also important that the plan is integrated into Equality Budgeting initiative of the Department of Public Expenditure and Reform.

Proposed Recommendations:

- Ensure that the full and effective development and implementation of ethnic equality monitoring (in line with human rights standards) across all relevant State departments and public bodies, as part of the forthcoming National Equality Data Strategy.

For further information, please contact:

Lynsey Kavanagh, Co-Director

e: lynsey.kavanagh@pavee.ie

t:+ 353 1 878 0255

Martin Collins, Co-Director

e: martin.collins@pavee.ie

t:+353 1 878 0255