



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**

14 November 2014

Case Document No. 5

European Roma Rights Centre v. Ireland
Complaint No.100/2013

FURTHER RESPONSE FROM THE GOVERNMENT

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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPÉEN DES DROITS SOCIAUX

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EUROPEAN ROMA RIGHTS CENTRE

V

IRELAND

Complaint 100/2013

REPLYING OBSERVATIONS OF THE RESPONDENT

14 November 2014

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I INTRODUCTION

1. The ERRC's Replies to the Government's Observations on the merits ("the Government's Observations") will be referred to as the "ERRC Replies".
2. Ireland reaffirms its statement of its obligations under the Charter made at paragraph 2 of the Government's Observations. However, contrary to paragraph 2 of the ERRC Replies, it is denied that Ireland has not ensured the satisfactory application of Article 16 and Article 30 of the same.

II THE ADMISSIBILITY OF MATTERS COMPLAINED OF IN THE COLLECTIVE COMPLAINT AND THE ERRC REPLIES

3. Ireland submits at the outset that the ERRC has misunderstood the nature of the Collective Complaint procedure. It is not designed to permit the mere bundling of individual complaints. Rather, the Collective Complaint procedure, and the Charter itself, concern the systems and legal frameworks in place in Contracting States.
4. The ERRC has sought to rely on unsubstantiated information concerning alleged individual and specific circumstances which is inadmissible *per se*. Even if in principle admissible, that they have done so without placing on record the express authority of the persons concerned to plead same before an international body renders large portions both of the original Complaint and the subsequent Replies fundamentally inadmissible.
5. Contrary to the stance taken by the ERRC Replies, this Collective Complaint is not about individual complaints about accommodation or eviction, nor is it about the statements of a small number of candidates for local political office, nor is it about the ethnic status of Irish Travellers, nor is it about binding elected governments in their decision-making with the recommendations of unelected consultative bodies, nor is it about many other matters canvassed liberally in the Collective Complaint and ERRC Replies.

Matters properly before this Committee

6. The Collective Complaint, instead, properly concerns the legal framework and system of provision of Traveller accommodation in Ireland and the operation of specified laws which affect Travellers present on unauthorised sites. These are the legal and systemic issues properly before this Committee, and it is to these issues which Ireland seeks to respond.

Adoption and non-repetition of Government's Observations in Defence on the merits

7. Ireland has comprehensively set out in its Observations in Defence its submissions on the applicable law properly in issue. For reasons of economy of pleadings, it does not repeat the same herein but rather simply responds to the various specific arguments and allegations freshly made in the ERRC Replies.
8. Ireland would simply point out that nothing in the ERRC Replies undermines the principal arguments made by Ireland in its Observations in Defence:
 - (a) first, in respect of Traveller accommodation, Ireland has made measurable progress to an extent consistent with the maximum use of available resources to provide adequate accommodation for Travellers (a significant and complex long-term goal) in a reasonable time; and,
 - (b) second, that Irish authorities, when enforcing legislation against illegal occupants, comply with the obligations set out in the Committee's jurisprudence, and the Collective Complaint does not set out any verified case to establish otherwise.

Ireland's responses to allegations concerning individual and specific circumstances

9. Despite Ireland's very strong objections to both the admissibility of the individual and/or specific complaints, and (if admissible) the relevance and probative nature of same to the legal pleas made, Ireland acknowledges the seriousness of every allegation made by the ERRC and, where possible, has endeavoured to respond to each allegation insofar as has been possible.

10. As stated above, the ERRC Replies represent an amalgamation of data from a range of unparticularised sources that is entirely unsuitable in the context of a Collective Complaint before the Committee.
11. Furthermore, these complaints are characterised by a reliance on hearsay and a failure to both substantiate and fully identify the matter complained of. The use of such unsubstantiated specific allegations prejudices Ireland's ability to respond comprehensively to the ERRC Replies in the context of a Collective Complaint procedure which is designed to address systemic issues. This is particularly true in circumstances where, as outlined below and in the Government's Observations, many of these allegations are vague, have been taken out of context or presented without context, or are simply inconsistent and inaccurate accounts of events taking place over an unspecified time period. Thus, the ERRC attempts to use collateral and anecdotal allegations in order to illustrate alleged breaches of the Charter (which are denied). Such individual accounts cannot be taken as representative of the situation of Irish Travellers, nor do they in any way constitute evidence sufficient to impugn Ireland's legal and systemic approach to the matters complained of.
12. Finally, Ireland has serious reservations about commenting on individual cases, which inevitably infringes/trespasses/encroaches upon the privacy of individuals, in circumstances where the ERRC is not acting on their behalf. It is restricted even in its ability to access data in respect of cases, given that the express consent of the individuals has not been given.
13. For these reasons, Ireland is restricted in the responses it can provide in certain cases. They present Ireland with a severe deficit in ability to defend its position if these individual and/or specific complaints are declared admissible.

III APPLICABLE PRINCIPLES OF INTERNATIONAL LAW

14. Contrary to paragraph 3 of the ERRC Replies, Ireland has, since the 1995 Task Force Report, adopted an intercultural approach towards facilitating the culture and lifestyle of the Traveller Community in a manner entirely consistent with international norms. Under this approach, the status and living conditions of Travellers in Ireland have continuously improved.

III.1 ECSR Jurisprudence

III.1.i The duty to protect the family and the right to adequate housing

15. With regard to paragraph 4 of the ERRC Replies, Ireland rejects the ERRC's allegation that its summary of its legal obligations under Article 16 was "*misleading*". The ERRC omit to mention that the Government's Observations, having correctly stated that the State's obligation under Article 16 was not one of "*results*", went on to outline the exact nature of the State's obligations with regard to ensuring "*practical and effective rights*". As stated at paragraph 7, States must: adopt the necessary legal, financial and operational means of ensuring steady progress towards achieving goals laid down by the Charter; maintain meaningful statistics on needs, resources and results; undertake regular reviews of the impact of the strategies adopted; establish a timetable and not defer indefinitely the deadline for achieving the objectives of each stage; and pay close attention to the impact of the policies adopted on each of the categories of persons concerned, particularly the most vulnerable.¹ Ireland submits that it has fulfilled these obligations and has therefore given practical effect to the rights under the Charter. Further, the allegation that Ireland has not fulfilled its negative obligation not to subject Travellers to unlawful eviction is denied.
16. Ireland notes that the ERRC do not contest the assertion at paragraph 9 of the Government's Observations that states are afforded a wide margin of appreciation as to what constitutes a reasonable time period where the goal to be achieved is exceptionally complex and particularly expensive.
17. Contrary to paragraph 6 of the ERRC Replies, Ireland reiterates that it is fulfilling its obligations with regard to the provision of basic amenities and management of overcrowding in Traveller accommodation.
18. With regard to paragraph 7 of the **ERRC Replies, the Government's Observations** provided an explanation for the under-spending of the funds allocated for Traveller-specific accommodation at paragraph 54.

¹*FEANTSA v France*, Complaint No. 39/2006, "Decision on the Merits" of 5 December 2007 at paragraphs 53-54.

III.1.ii Evictions

19. With regard to paragraph 8 of the **ERRC Replies**, it is denied that evictions which do not meet the criteria for forced evictions described in the Committee's jurisprudence are permitted in Ireland.

20. Further, the ERRC repeatedly place emphasis on recent case law of the European Court of Human Rights (ECtHR) to reinforce their claim. Ireland refutes the ERRC's analysis of this case law. In particular, with respect to the judgment in *Winterstein v France*,² the ERRC exaggerate the basis of the ruling. *Winterstein* concerned the removal of a large encampment of Roma who had been present, with the acquiescence of the authorities, in the same area for a long period of time, and this factored heavily in the Court's reasoning. Indeed, at paragraph 159, the ECtHR stated that no right to housing existed under Article 8 of the ECHR and that the judgment was predicated on "*the specific circumstances of the case and in view of the long history of the presence of the applicants, their families and the community they had formed*". Thus, the *Winterstein* rationale must be viewed as exceptional and cannot be seen as creating a general duty under Article 8 ECHR to re-house evicted persons.

21. The ERRC also rely on the judgment of the ECtHR in *Rousk v Sweden*, in which the applicant had been evicted from his home so that the house could be sold and used to resolve outstanding tax liability.³ He challenged the eviction order before his local District Court which refused to suspend the execution of the order while the matter was being determined. Thus, although the applicant did successfully appeal that court's negative decision, the eviction took place prior to him winning his case. The ERRC seek to derive a general duty to have every eviction by a public authority approved by Court order *prior* to the eviction taking place from paragraph 139 of the ECtHR's judgment. However, this was not the basis of the ruling in *Rousk*. Rather, it was held that the "*eviction should have been postponed until the underlying contentious issues had been resolved.*" Thus, where a person elects to challenge an eviction order against him, the effect of that order should be suspended so as to allow his challenge (including any appeals) to be heard. Contrary to paragraph 8 of the

²*Winterstein v France* (application no.27013/07), Judgment, 17 October 2013.

³*Rousk v Sweden* (application no. 27183/04) Judgment 25 July 2013.

ERRC Replies and as was previously stated in paragraph 101 of the Government's Observations, such review (and the possibility of suspensive relief by way of injunction) is possible with regard to the Public Order Act as evidenced by the interim relief granted in the *McDonagh* case referred to in footnote 72 of the Government's Observations.

22. Contrary to paragraph 9 of the ERRC Replies, Ireland reiterates that, in practice, Irish local authorities comply with all of the requirements of the Committee's jurisprudence regarding forced evictions. Further, work is underway to codify these general practices into a set of Eviction guidelines in consultation with the National Traveller Accommodation Consultative Committee (NTACC). A copy of these guidelines will be forwarded to the Committee once finalised.

III.1.iii Article 30 and the right to protection from poverty

23. Ireland notes that the ERRC accepts paragraphs 16 to 18 of the Government's Observations.

III.1.iv Children and the Right to Education

24. Ireland notes that the ERRC accepts paragraph 19 of the Government's Observations.

III.2 Other international legal standards

25. No response is required in relation to paragraph 12 of the ERRC Replies.

III.3 Discrimination in access to housing

26. No response is required in relation to paragraph 12 of the ERRC Replies.

IV BACKGROUND TO THE COMPLAINT

27. Ireland reiterates that, over the last two decades, it has made measurable progress in supporting the culture and heritage of the Traveller Community through its allocation of a significant portion of public funds.

IV.1 General Government Policy on Travellers in Irish Society & III.1.i Traveller Culture

28. Ireland rejects the suggestions at paragraphs 14 and 16 of the ERRC Replies that the attitudes of individual politicians can be taken as representing the position of the Irish Government (or any of its constituent parties). These views are completely at variance with the Irish Government's policy towards Travellers. Indeed, the Chairperson of the National Traveller Monitoring and Advisory Committee at the Department of Justice and Equality contacted the leaders of all political parties in the State prior to local elections requesting that they encourage candidates to refrain from exactly the kind of remarks the ERRC have highlighted.⁴

IV.1.ii Traveller Status

29. Contrary to paragraph 17 of the ERRC Replies, Travellers in Ireland have the same civil and political rights as other Irish citizens under the Constitution. All anti-discrimination measures specifically identify Travellers by name as a protected group. All equality-based protections afforded by EU directives and international conventions apply to Travellers because the legislation giving effect to those international instruments explicitly refers to Travellers. In particular, the Equality Act 2004 (**Annex 1**), which transposed the EU Race Equality Directive, applied the protections of that Directive to members of the Traveller community.
30. With regard to the issue of the recognition of Traveller ethnic minority status, Ireland notes that, at paragraph 18 of the ERRC Replies, the ERRC acknowledges that extensive public consultation on this issue was undertaken by the Joint Oireachtas Committee on Justice, Defence and Equality. In April 2014, that Committee delivered a report recommending the recognition of Traveller ethnic minority status and the

⁴ Annex 2

ERRC is entirely correct in saying that it is currently being considered by the Minister for Justice and Equality. In any event, this issue is not before the Committee.

31. However, contrary to the assertions at paragraphs 20 and 21 of the ERRC Replies, Travellers do receive express legislative protection under a number of laws in Ireland (which were outlined at paragraph 28 of the Government's Observations).
32. With regard to the allegation at paragraph 20 of the ERRC Replies that the 2003 amendment has in some way undermined the effectiveness of the Equal Status Act, Ireland submits that the amendment served a number of purposes. Again this is not an issue which is the subject of the Collective Complaint. Nor is the interpretation of Ireland's transposition of the EU Race Directive. However, as the ERRC in essence confirm, Travellers have been consistently included as a protected class in all Irish equality legislation.
33. With regard to paragraph 22 of the ERRC Replies, Ireland notes that the ERRC is aware of the financial crisis which has been the cause of much hardship in the State and resulted in significant reductions in spending across the board. Such reductions in spending were not unique to the funding for equality and rights agencies. However, funding for Traveller Accommodation is ring-fenced funding in addition to the other social housing funding streams.

IV.1.iii Traveller Education

34. Ireland's responses to the ERRC's comments on Traveller Education are found below at paragraphs 143 to 151.

IV.1.iv Traveller Health

35. With regard to paragraph 31 of the ERRC Replies, it is unclear how the assertions made by the ERRC are in contrast to any statement made in paragraph 31 of the Government's Observations. The Government asserted that it has dedicated resources to the particular issue of Traveller Health and that its Department of Health and

Children commissioned the All Ireland Traveller Health Study.⁵ The ERRC refers to figures which the Government has sought to compile in order to address this precise issue.

IV.2 The Provision of Traveller Accommodation in Ireland

36. In response to paragraph 25 of the ERRC Replies, Ireland does not limit its efforts with regard to Traveller Accommodation to the provision of funding. As documented by the wealth of statistics and policy documents which accompanied the Government's Observations, Ireland has consistently sought to understand, evaluate and address the accommodation needs of its Traveller Community despite the continually high growth in the numbers of Traveller families as well as the constraints imposed by the financial difficulties which have gripped the country in recent years. Ireland accepts that it has been the constant jurisprudence of the Committee that States should strive to achieve complex and costly goals within a reasonable time, with measurable progress consistent with the maximum use of available resources. However, Ireland notes, as it did at paragraph 9 of the Government's Observations, that States are afforded a relatively wide margin as to what constitutes a reasonable time period, varying on the facts of the case: the Committee has found, for example, that a timeframe of 8 years did not exceed the State's margin.⁶ In the circumstances, Ireland has done its utmost to improve the lives of the Traveller Community despite great difficulties, and will continue to do so.

IV.2.i A Co-ordinated Framework

37. Contrary to the assertions at paragraphs 26 and 27 of the ERRC Replies, the effectiveness of the system under the Housing (Traveller Accommodation) Act 1998 is clearly documented by the outcomes under that system. Despite significant increases in the population of the Traveller Community, Ireland has managed to facilitate the accommodation needs of the vast majority of same. While Ireland will never consider its goals achieved until all Travellers are accommodated in the manner of their choosing, it cannot be denied that the advancements outlined at paragraphs 39

⁵ See Annex 15 to the Government's Observations.

⁶ *ERTF v France*, Complaint No. 64/2011, "Decision on the Merits" of 24 January 2012.

to 43 of the Government's Observations are a commendation of the existing system. Ireland rejects the suggestion that the 1998 Act is in some way undermined by the Public Order Act which is an unrelated provision dealing with specific harm.

Assessment of Need

38. Ireland rejects the suggestions made at paragraphs 28 –31 of the ERRC Replies that the Assessment of Need undertaken as part of the process of preparing the 2014-2018 Traveller Accommodation Programmes⁷ was flawed. As the ERRC admits, directions for additional consultation with the Traveller Community were given in Circular 26 of 2013. These guidelines were largely followed by Local Authorities with few exceptions. Ireland firmly denies the allegation that the results of the Assessment of Need were in any way incorrect. By way of example, Laois County Council conducted an Assessment of Need in consultation with the Laois Traveller Action Group which resulted in figures that were practically identical to those obtained by the Action Group carrying out its own assessment. Similarly, Kerry County Council conducted an extensive consultation with the Kerry Travellers Development Project to ensure consistency.⁸
39. At paragraph 32 of its Replies, the ERRC states that five Councils⁹ did not enumerate the number of families who were assessed or eligible for assessment in their TAPs 2014-18, and that five Councils¹⁰ did not list their targets to respond to the accommodation needs of Travellers in their areas. At paragraph 29 of their Replies, the ERRC also call into question the consultation in respect of the preparation of Traveller Accommodation Programmes.
40. In relation to the listing of targets, although all of the TAPs may not have provided the same level of detail, all of the Councils mentioned did in fact discuss targets in their

⁷ The 2014-2018 Traveller Accommodation Programme for Monaghan County Council is the only TAP which is not currently available. The rest are annexed to this document at **Annexes 4 to 34**.

⁸ Cavan, Mayo, Monaghan and Kilkenny County Councils have also confirmed that extensive consultation occurred as part of their Assessments of Need.

⁹ Mayo, Co. Waterford, Wexford, Wicklow and Limerick City and County.

¹⁰ Cavan, Co. Waterford, Wexford, Cork city and Limerick City.

TAPS.¹¹ In some cases, the material dealing with the assessment of need, demand for accommodation and future targets may be collated and thus perhaps not in as structured a form as the ERRC would like. However, despite differences in the presentation of data, the Councils have all abided by their obligations in preparation of their TAPS.

41. In relation to the Councils' references to consultations with families in their TAPS, nowhere in this guidance is there a requirement to expressly indicate the precise number of families with whom a Council has consulted. The obligation on the Council is to carry out the consultations with the affected persons and to assess future demand on that basis, *not* to recite the specific details of same in their TAPs. All of the Councils mentioned in paragraph 32 did indeed conduct consultations with Traveller families in forming the "*comprehensive picture*" of accommodation needs in their areas. Notwithstanding that some Councils addressed these consultations in a less exhaustive manner than others, the consultation process itself was nonetheless a common feature in all of the Councils' assessment of accommodation needs and subsequent preparation of their TAPS.
42. Thus, contrary to paragraph 33 of the ERRC Replies, Ireland reiterates that Traveller Accommodation Programmes emerge from a background of consultation with the Travelling community.
43. Further, Ireland submits that the ERRC have forwarded, throughout their Replies, unrealistic expectations of what a consultative process should entail. Irish central and local authorities undertake to consult groups such as the Traveller Community so as to enable national policy to be guided by their views. However, the views of Travellers taken through such consultations have no binding effect on national policy and, indeed, such binding effect is not necessary to achieve the aims pursued by consultation. Similar consultative mechanisms are employed with regard to other groups in Irish society such as disabled persons.

¹¹ Page 13 Cavan TAP; Pages 16-17 Wexford TAP; Page 14 Co. Waterford TAP; Page 13-16 Cork City TAP; and Pages 21-25 Limerick City and County TAP.

Provision of transient accommodation

44. The ERRC acknowledge at paragraph 34 of their Replies that Local Authorities are required to have regard to the provision of transient sites when preparing their Traveller Accommodation Programmes. The provision of such sites has been an area which has caused some difficulty as explained at paragraphs 162 to 166 of the Government's Observations and, in particular, as noted at paragraph 163 of the Observations, those transient sites which were established have experienced very little demand for their intended purpose. Thus, Ireland does admit that some bays in transient sites have been allocated to families in need.

Other matters under the national framework

45. Contrary to paragraphs 35 and 36 of the ERRC Replies, Ireland submits that the National Traveller Accommodation Consultative Committee acts as an effective supervisory body for the system under the 1998 Traveller Accommodation Act. Further, as was outlined in paragraph 178 of the Government's Observations, Section 31 of the 1998 Act states that Annual Reports on the implementation of Traveller Accommodation Programmes must be compiled by housing authorities and that any shortfall in implementation must be explained to the relevant Minister. The Department for Environment, Community and Local Government also submits Progress Reports to the National Traveller Accommodation Consultative Committee. This system of monitoring is effective and there is no need to imbue the National Traveller Accommodation Consultative Committee with the power to impose sanctions.
46. With regard to paragraph 37 of the ERRC Replies, Ireland strongly denies that there is a lack of significant civil servant or political engagement with the National Traveller Monitoring Advisory Committee (NTMAC). The Minister of State for Equality Issues attended NTMAC during 2014 and relevant Government Departments (such as the Departments of Education, Environment, Community and Local Government and Children and Youth Affairs) are regularly in attendance at NTMAC, as well as the

Health Service Executive and An Garda Síochána. The Terms of Reference of the NTMAC are as follows:

- (1.) *“To serve as a forum for consultation on current issues of national importance affecting the Travelling Community.*
- (2.) *To identify issues of national importance to the Traveller Community which might not be dealt with adequately through existing mechanisms.*
- (3.) *To suggest appropriate responses to issues identified under 2 above, in cooperation with relevant state agencies and other stakeholders.*
- (4.) *To monitor developments in the position of Travellers in Irish society generally and with particular reference to issues identified at 2 above.*
- (5.) *To report to the Minister for Justice, Equality and Law Reform, every two years identifying key issues of ongoing concern.”*

47. With regard to paragraph 38 of the ERRC Replies, the recommendations of National Committees inform national policies. Such recommendations are considered and frequently implemented.

48. With regard to paragraph 39 of the ERRC Replies, the chairperson of a Local Traveller Accommodation Consultative Committee (LTACC) is elected by a majority vote of the members of those committees. In areas where local Traveller groups are in operation, it is recommended that Local Authorities liaise with these groups in relation to the selection of Traveller representatives for their LTACC. Moreover, it is not the case that a Traveller requires to chair such committees in order for the LTACCs to be effective. In any event, contrary to paragraph 39, a member of the Traveller representatives served as the chair of the LTACC in Donegal from 2010 to 2014.

49. With regard to paragraph 40 of the ERRC Replies, emergency accommodation, by its very nature, needs to be provided on an impromptu basis which does not always allow for consultation with Traveller groups. This is in contrast to the provision of

permanent accommodation in that administrative area which always incorporates consultation in the process of making a Traveller Accommodation Programme.

IV.2.ii Measurable Progress

50. With regard to the identical assertions made at paragraphs 41 and 45 of the ERRC Replies, the Government's Observations clearly outlined the position regarding the provision of transient sites at paragraphs 162 to 166. It is well documented that the provision of such sites has been a matter of disagreement at local level across the vast majority of Local Authorities – often including views expressed by settled Traveller Communities.¹² Further, the transient sites which have been put in place have experienced very little demand.
51. In respect of paragraph 42 of the ERRC Replies, it is to be expected that Local Authorities will have encountered difficulties in achieving the goals set for the 2009-2013 period. The targets for 2009-2013 were set in a time of economic prosperity (2008) whereas that period was characterised by severe economic depression, inflated land prices and externally imposed fiscal constraints on spending. Such a climate was not conducive to the achievement of medium-term social goals and it is with great regret that the Irish Government was forced to compromise on its aspirations for this period. The ERRC aptly referred to this period as the “*financial crisis*” at paragraph 22 of its Replies. However, notwithstanding this economic downturn, 71% of the targets set for the 5 year programme have been achieved.
52. Contrary to paragraph 43 of the ERRC Replies, where Traveller families express a preference for private rented accommodation, Local Authorities will seek to facilitate this. Accommodating Travellers according to their expressed preference is clearly satisfactory.
53. With regard to paragraph 44 of the **ERRC Replies**, the targets set by each Local Authority and the progress made in pursuit of these targets are monitored and collated

¹² As previously stated this has been a feature of many attempts to establish such sites including in Dun Laoighaoire/Rathdown, Kilkenny, Limerick City, Limerick County, Mayo and Wexford.

at a national level. A copy of this data for the 2009-2013 period is included in the annexes to this document.¹³

54. With regard to paragraph 46 of the ERRC Replies, Ireland denies that its laws and policies can be described as “*draconian*”; nor are any such laws and policies incompatible with the Charter. Ireland submits that Travellers are allocated accommodation according to the preference they express and that private rented accommodation has been the preference expressed by a large number of Traveller families in recent years.
55. With regard to the allegations made at paragraph 47 of the ERRC Replies, Ireland contends that the decline in Travellers living on unauthorised sites relates to the use of the Section 10 notice system to relocate these Travellers to more suitable accommodation. Ireland further submits that, while there has been a growth in sharing accommodation, intergenerational sharing in Traveller families is often voluntary and, as stated in the NTACC’s 2010 Report cited by the ERRC, is often in “*perfectly acceptable conditions*”. As stated at paragraph 161 of the Government’s Observations, where overcrowding occurs, Local Authorities will consult with the families involved and, if necessary, use the Section 10 notice system to relocate affected persons.
56. With regard to paragraph 48 of the ERRC Replies, two observations need be made:
 - (a) Traveller families who choose to live in private rented accommodation enjoy the same security of tenure as members of the settled community. The issue of security of tenure in relation to the private rented accommodation sector is governed by the Private Residential Tenancies Act 2004 (**Annex 36**) and the Housing (Miscellaneous Provisions) Act 2009 (**Annex 37**). These enactments apply to all families in private rented sector. The 2014 Housing (Miscellaneous Provisions) Act (**Annex 38**) also brings about a new scheme of housing assistance payments (HAP) by housing authorities in respect of rent payable by households qualified for social housing support for private rented

¹³ Annex 35.

accommodation sourced by the households concerned. Households which are long-term recipients of rent supplement from the Department of Social Protection transfer to the new housing assistance scheme, a mandatory facility for the deduction of rents, rent contributions and rent arrears payable to housing authorities from social welfare payments due to local authority tenants and HAP and RAS beneficiaries;

(b) As stated at paragraph 55 above, Traveller families who share accommodation often do so voluntarily and in good living conditions. Further, the ERRC Replies implicitly recognise that some such families have security of tenure.

57. Paragraph 49 of the ERRC Replies is misleading as the ERRC's analysis entirely disregards the massive growth in the Traveller population in Ireland between 1999 and 2013 – from 4,790 families to 9,899 families. In circumstances where the Traveller population has more than doubled since 1999, it is disingenuous of the ERRC to discount the monumental efforts made by the Irish Government to cope with their accommodation needs.

58. In response to paragraph 50 of the ERRC Replies, Ireland has endeavoured to facilitate the express preference of some Traveller families to access accommodation on the private market and its success in this regard is well documented. Indeed this preference was highlighted in the recent KW & Associates Report into "*Why Travellers Leave Traveller-specific Accommodation*". It was stated that "[u]ndoubtedly there are Travellers whose first preference would be private rented accommodation." It was further noted in that report that views on the extent of this preference varied across consultees. The declining number of Traveller families living in and seeking to live in Traveller-specific accommodation is also a matter of preference and at paragraph 156 of the Government's Observations it was noted that of 1,824 Traveller families seeking accommodation in 2011, 1,789 identified that their needs could be met by standard local authority/voluntary housing. It is denied that any legislation in Ireland "*criminalises (and otherwise renders impossible) nomadism.*"

59. In response to paragraph 51 of the ERRC Replies, the period to which the cited NTACC Report refers was characterised by the gross over-inflation of Irish land

prices which caused difficulties in the provision of *all* forms of social housing (including traveller-specific accommodation). The State therefore endeavoured to secure accommodation for all Traveller families in accordance with their preferences (which included standard local authority housing).

60. With regard to paragraph 52 of the ERRC Replies, Ireland has already acknowledged that it has fallen short of its targets for the provision of Traveller-specific accommodation. However, the reasons for this shortfall have been repeatedly addressed and include the severe financial constraints on the State as well as the particular difficulties associated with the provision of Traveller accommodation (as outlined in paragraph 70 below).
61. With regard to paragraph 53 of the **ERRC Replies**, the ERRC's allegation that Travellers experience difficulty in accessing private rented accommodation is interesting when placed alongside its staunch criticism of the Irish Government's continuing efforts and apparent successes with regard to facilitating same. Further, Ireland is aware of the difficulties noted with regard to increasing rents and the ongoing accommodation crisis in Ireland's urban centres, but notes that this crisis equally affects members of the settled community. The NTACC is conducting research into this matter in conjunction with the Private Residential Tenancies Board.
62. In addition, the statistics cited by the ERRC (which are, in any event, irrelevant to the question of whether Traveller families experience difficulty in securing accommodation) do not in any way contradict those cited by the Government at paragraph 44 of its Observations that 2,829 Traveller families were accommodated in private rented accommodation in 2012.¹⁴ It is somewhat bizarre that the ERRC asks the Committee to disregard the fact of large numbers of Traveller families living in private rented accommodation. In circumstances where Traveller families have historically experienced difficulties in accessing such accommodation, it is clearly positive that those families wishing to secure private rented accommodation have increasingly been given the opportunity to do so.

¹⁴ This figure is now 2,717 Traveller families as of the 2013 Annual Count.

63. In response to paragraph 54 of the ERRC Replies, it is a matter for each Local Authority to determine the accommodation needs the Travellers in its area based on the applications received – including any request for a specific type of accommodation – and to submit these proposals on a case by case basis for the Department’s consideration. It is open to all Traveller families consulted during the assessment of need to opt for Traveller Specific Accommodation.
64. In response to paragraph 55 of the ERRC Replies, the caravan loan scheme outlined in paragraph 45 of the Government’s Observations remains part of Ireland’s overall approach to facilitating the nomadic lifestyle of Travellers.¹⁵ Certain Local Authorities have experienced difficulties with arrears and this has caused the scheme to be suspended. For example, South Dublin County Council reports that it has granted 146 loans under the scheme to date totalling at €766,080.95 of which €475,926.02 remains outstanding.
65. In response to particular allegations made at paragraph 56 of the ERRC Replies, Ireland has investigated these matters and insofar as it has been possible to ascertain new facts, the Local Authorities concerned have stated that:
- (a) With regard to the allegation at paragraph 56(c) of the ERRC Replies, Galway County Council states that, while Capira Halting site is in a rural area and is not serviced by public transport, it is only 3 miles from Portumna and Killimor. The site has basic water and sanitation facilities as well as access to electricity through pay cards. In any event, most occupants only remain on site on a short-term basis;
 - (b) With regard to paragraph 56(d), Galway County Council states that the Creggane Group Housing Scheme is very near the local primary school and, in any event, the occupants have transport;
 - (c) With regard to paragraph 56(e), this allegation appears to be out of place given that the ERRC concede that the site is within Athenry town limits. Further,

¹⁵ See Circular Letters No. TAU 1/2000 dated 7 February 2000 and TAU 1A/2000 dated 18 October 2000 which outline the nature of these schemes and the aid available: Annex 25 to the Government’s Observations.

Galway County Council states that Ballydavid is not a halting site as has been described in the ERRC Replies. Rather, it is a Group Housing Scheme. The requests for street lighting and speed ramps are recent and are under discussion;

- (d) With regard to paragraph 56(f), Galway City Council states that the Carrowbrowne Transient and Temporary Halting Sites (which were referred to in footnote 53 of the Government's Observations) are located approximately 7 kilometres north of Galway City. The sites are serviced by a Community Centre school bus and after-school services. These services are supported by Galway Traveller Movement, St Vincent de Paul and the O'Connell Trust;
- (e) With regard to paragraph 56(i), Wicklow County Council states that all halting sites are within 5 miles of towns;
- (f) With regard to paragraph 56(j), Kerry County Council would like it clarified that the site referred to at Brennan's Glen is not a traveller halting site and is actually used as emergency accommodation as part of their homelessness infrastructure. There are no Traveller units at this location and the site is used only on an infrequent basis.

66. With regard to the allegations at paragraph 57 of the ERRC Replies relating to amenities in Traveller-specific accommodation, insofar as it has been possible to ascertain new facts, Local Authorities have replied as follows:

- (a) With regard to paragraph 57(b), Galway County Council states that the problems relating to water and electricity on the Creggane site were caused by illegal connections from the Group Housing Scheme to adjacent unauthorised dwellings. The Council states that all reported problems are investigated immediately and dealt with;
- (b) With regard to paragraph 57(c), Wicklow County Council states that all Traveller-specific accommodation has sanitation facilities;

- (c) With regard to paragraph 57(d), Kildare County Council denies the allegation made. The Council states that all halting sites in its administrative area have water and electricity.
 - (d) With regard to paragraph 57(e), Cork City Council refutes the alleged issues regarding water pressure and hot water supply at St Anthony's Park halting site. The issue regarding electricity supply at Spring Lane halting site is in the process of being remedied and designs to upgrade the electricity supply to the site are being finalised prior to appointing a contractor to carry out the work;
 - (e) With regard to paragraph 57(f), Dublin City Council states that, since the privatisation of the waste disposal service in Dublin, tenants are responsible for ensuring that their waste is collected by an approved collector. The Council understands that a waste collection service has been arranged and has been in place in the Labre Park site for some time.
67. In response to paragraph 58 of the ERRC Replies, Ireland did not assert that all Traveller Accommodation Programmes were to be published online; nor is this a requirement under the Traveller Accommodation Act 1998 (or under the Charter). Further, the ERRC accepts that all Traveller Accommodation Programmes were publicly available in local newspapers.
68. In response to paragraph 59 of the ERRC Replies, Ireland denies the allegation that a hostile environment exists in the State for the provision of Traveller accommodation. With regard to the statement in Clare County Council's Traveller Accommodation Programme that accommodation will be provided for accommodation purposes and will not serve Traveller economic activities, there is no requirement under the Charter for culturally appropriate accommodation to facilitate such economic activities. In any event, in relation to the retaining of scrap from end of life vehicles, this is now subject to regulation pursuant to the Directive 2008/98/EC. The keeping of horses is also regulated under the Control of Horses Act 1996 (**Annex 39**). These activities are contrary to good estate management and are not encouraged within a residential setting. Further, the comments made in Donegal County Council's Traveller Accommodation Programme related to the economic climate in Ireland. Donegal has

constructed a number of Traveller-specific accommodation schemes in recent years including an 8 dwelling Group Housing scheme, a 4 dwelling Group Housing scheme and a number of individual halting site units.

IV.2.iii Maximum Use of Available Resources

Generally

69. In response to paragraph 60 of the ERRC Replies, Ireland rejects the ERRC's suggestion that its submissions have been misleading. Further, although the ERRC is correct to say the 2014 budget allocation for capital works on Traveller accommodation is €3 million, this is not a complete picture of the funds being utilised. First, the Government have also allocated a further €3.25 million to accommodation-related supports for Travellers. Second, this €6.25 million represents only the ring-fenced funding available for Traveller-specific accommodation. Third, Travellers are also accommodated using funds from the general social housing budget.
70. With regard to the ERRC's description of the under-spending of the budget allocations by Local Authorities at paragraphs 61 and 62 of its Replies, this must be read in context. Over the past 10 years, the Department of the Environment, Community and Local Government (DECLG) has recouped in excess of €260m to Local Authorities from a capital budget of €324m. This represents an 80% drawdown on capital funding by Local Authorities collectively. Due to a range of issues associated with the delivery of Traveller-specific accommodation projects, some Local Authorities were unable to drawdown their full allocation. This reflects the particular problems associated with providing Traveller-specific accommodation which have arisen during this time. Local Authorities have given a number of reasons, including: Traveller families refusing offers of accommodation; families only willing to live in certain areas where housing availability may be an issue; difficulties in obtaining Traveller agreement locally; planning and legal problems; difficulties in obtaining site access; and anti-social behaviour by some Traveller families can delay the development of projects.

71. In addition, funds allocated each year are not necessarily discrete budgets and may incorporate a portion of a previous year's allocation. Therefore what might appear to be an under-spend reflects both an accounting practice, and the fact that a number of schemes have been in preparation over a number of years and the budget allocation may have been rolled over, from year to year.
72. The DECLG closely monitors progress by housing authorities in relation to the implementation of their annual work programmes for the supply and improvement of social housing funded under Social Housing Investment Programme, including Traveller accommodation. Capital allocations are issued annually to housing authorities for each of the principal measures. With regard specifically to Traveller allocations, housing authorities are required to submit quarterly profiles of expenditure under each of these measures. Expenditure is closely monitored against the projected spend figures and, where variations arise, the DECLG consults with the Local Authority concerned. The DECLG also reports to the Department of Public Expenditure and Reform on its projected spend on a monthly basis for each of the related subheads, providing explanations for any deviation from the projected spend or drawdown by housing authorities. These issues are closely monitored by the Department of the Environment and the National Traveller Accommodation Consultative Committee.
73. Contrary to the ERRC's assertion at paragraph 63 of its Replies, the Government did not fail to ensure that value for money was attained in State expenditure. The cost of developing Traveller-specific accommodation can be significantly higher than the provision of standard housing for a number of reasons: difficulties obtaining suitable sites close to amenities because of local opposition; increasing demands for the provision of items which can add to the costs such as additional security; increases in tenders which can reflect delays; and security concerns with projects which add to the cost of the projects.
74. Contrary to paragraph 64 of the ERRC Replies, the DECLG do provide 100% capital funding. The ERRC's references to the Clare and Donegal Traveller Accommodation Programmes are misleading. Clare County Council states that no such statement is included in its Traveller Accommodation Programme whereas Donegal County

Council's position has been outlined above. Donegal's comments are to be understood as referring to difficulties caused by the economic climate. Neither Council suggested that Traveller accommodation might not be provided.

75. Ireland rejects outright the allegation made at paragraphs 65 and 68 of the ERRC Replies that the under-spending of the Traveller-specific accommodation budget evidences unwillingness on the part of Local Authorities to provide for same. This is simply not the case. As previously stated, Local Authorities have drawn down €260m over the last 10 years for the purposes of providing Traveller-specific accommodation.
76. With regard to the allegation at paragraph 66 of the ERRC Replies, Ireland has already explained that, although the Traveller-specific accommodation budget has been reduced owing to fiscal constraints, it actually comprises an allocation of €3 million for capital works as well as an allocation of €3.25 million for accommodation-related supports. Further, Travellers are also accommodated using funding from the mainstream social housing budget.
77. At paragraph 67 of the ERRC Replies, the ERRC once again elides the distinction between views espoused by individual and low-level members of political parties and official central and local government policy on the issue of allocating accommodation to Travellers. As outlined in paragraph 54 of the Government's Observations, the under-spend is not an indicator of the level of Ireland's commitment to providing Traveller accommodation and the Irish Government and Local Authorities have made *bona fide* efforts to secure suitable housing which have been frustrated by a number of factors which have already been discussed.
78. Contrary to paragraph 68 of the ERRC Replies, Local Authorities who under-spend their allocations are accountable to the DECLG. As stated above, expenditure is closely monitored against the projected spend figures and where variations arise, the DECLG follows up with the Local Authority concerned. With regard to case law cited in this paragraph, the ERRC admits that such case law predates the system under the 1998 Act from which this monitoring emerges and is therefore of historical value only.

79. The limited and exceptional nature of mandatory court orders on the allocation of public funds is a feature of Irish constitutional law. However, Travellers have been successful in obtaining declaratory relief before the national courts.¹⁶
80. In response to the assertion at paragraph 68 of the ERRC Replies that the NTACC and LTACCs should be given powers of sanction over Local Authorities, Ireland reiterates that it considers that such powers are unnecessary for the system under the 1998 Act to function effectively.
81. Contrary to paragraph 69 of the ERRC Replies, the situation in Ireland is not comparable to that impugned by the Committee in its decision in *International Federation of Human Rights (FIDH) v Belgium*. In that matter, the Committee noted that there existed “no deliberate, proactive policies at federal or regional level to encourage municipalities to set up residential sites and take steps to organise temporary accommodation for Traveller families.”¹⁷ In Ireland, such policies do exist and have been enacted as binding legal requirements under the 1998 Act. Local Authorities have now adopted four successive rounds of Traveller Accommodation Programmes and have drawn down over €287 million since 2002 to work towards the achievement of the targets therein.

The CENA Initiative

82. Further, the Irish Government is constantly working to find new ways to resolve the difficulties regarding the provision of Traveller accommodation and, in October 2013, a Traveller-led housing organisation – Culturally Appropriate Homes Ltd or “CENA” – was given housing authority status under Section 6 of the Housing (Miscellaneous Provisions) Act 1992 (**Annex 40**). The Irish Government provided funding of €12,135.72 for a research project undertaken in 2009 in relation to the establishment of this project and has continued to provide financial support with regard to the establishment of CENA’s website and the launch of this body.

¹⁶ See for example *O’Donoghue v City of Limerick* (Unreported High Court judgment of 3rd February 2003) and *O’Reilly v Limerick Corporation* [2006] IEHC 174 (**Annex 41**).

¹⁷*International Federation of Human Rights (FIDH) v Belgium*, Complaint No. 62/2010, Decision on the Merits, 21 March 2012 at paragraph 118.

83. The CENA initiative is considered very worthwhile as it involves Travellers at every level in the planning and design of schemes, and particularly, in the management and maintenance of completed schemes.
84. CENA is currently, with the assistance of the Department of the Environment, Community and Local Government and the Irish Council for Social Housing, in the process of appointing a consultant to identify 2 possible pilot capital construction projects, one group housing and one halting site to commence construction in 2015. The Department will provide 100% capital funding for these schemes, including the professional fees for the consultant and project teams. The Department is also providing funding for the position of CENA coordinator and additional funding of €100,000 will be paid from the community funding side of the Department. CENA is also launching its website later this year (2014) which the Department has funded both in terms of its development and launch. It is expected that the selection process for the suitable projects will commence shortly with the funding to be made available from the Department in 2015.

Caravan Loan Scheme

85. The ERRC has raised a number of concerns – particularly at paragraph 62 of its Replies – relating to the caravan loan scheme. Ireland confirms that this scheme is still part of national policy in relation to facilitating Travellers’ nomadic way of life and is in operation in the majority of Local Authority areas. Contrary to the ERRC’s allegations, Waterford City and County Councils operate a caravan loan purchase scheme. Further, Laois County Council states that the scheme no longer appears on their Traveller Accommodation Programme because it has not received an application for a loan in 9 years.
86. However, certain Local Authorities have reconsidered the manner in which loans were granted in the past owing to the high levels of arrears which rendered the scheme unsustainable. By way of example, South Dublin County Council reports that it has granted 146 loans under the scheme to date totalling €766,080.95 of which €475,926.02 remains outstanding. For this reason the Council has been forced to suspend the scheme for the time being. Similarly, of the 66 loans approved by Offaly

County Council (for a total of €355,375.52), 27 loans are in arrears for a total sum of €81,665.25. The level of default in Cork City Council's loans was at approximately 68% prior to the suspension of the scheme. This issue has also been raised at the National Traveller Management Advisory Committee (NTMAC) and it has been suggested that a system whereby payments would be deducted from social welfare payments at source could be reinstated so as to facilitate the operation of the scheme. This issue is being dealt with by NTMAC and the Department of Justice and Equality.

87. In Local Authority areas where the caravan loan scheme has not been in operation, Local Authorities may provide caravans by alternative means. For instance, Wexford County Council reports that it pays for replacement caravans where existing ones deteriorate. In 2014, Wexford has spent €93,000 replacing caravans on two of its halting sites.

IV.2.iv Reasonable time period

88. Ireland reiterates that the progress it has achieved since the enactment of the 1998 Act has been remarkable. Contrary to paragraph 70 of the ERRC Replies, the under-spend, on which the ERRC places great reliance, is a result of a number of factors such as grossly inflated property prices; difficulties in obtaining suitable land; and other costs associated with the provision of Traveller-specific accommodation outlined in paragraph 73 above. Not all of the problems associated with the provision of Traveller-specific accommodation can be resolved through the use of the blunt instrument of compulsory purchase orders and, in any event, a compulsory purchase order is ordinarily accompanied by compensation at market value (which was inflated). In addition, contrary to paragraph 71, the figures given at paragraph 56 of the Government's Observations are not "random". These figures are in fact representative of the cost of providing Traveller-specific accommodation across all Local Authority areas and were used as an indication of the wide variation in the cost of delivering such accommodation.

89. With regard to paragraph 72 of the ERRC Replies, the Irish Government was aware of the study commissioned by the Housing Agency at the time of its original Observations (and indeed it made reference to this study at paragraph 154). The

ERRC's language elides the fact that the results of this study were not available at the time of those Observations and the ERRC's reference to a "*plea of ignorance*" on behalf of the Government should be disregarded. The Irish Government is considering the results of this research and will respond appropriately. However, on the particular issue of feuding, bullying and intimidation on halting sites, An Garda Síochána (the national police force) confirm that all matters are dealt with according to their merits when reported. In some cases, as in the Finglas area of Dublin, clinics are operated to allow members of the Traveller community to meet Gardaí and discuss matters of concern. Further, the allegation that the system for the provision of Traveller accommodation was "*set up to fail*" is entirely without basis in fact. The issue of transfers between sites is also being considered. However, Ireland firmly rejects the implication at paragraphs 73 and 74 of the ERRC Replies that the Assessment of Need is flawed by reason of the alleged failure of Travellers to express their actual preference. In addition, the NTACC, in conjunction with the Private Residential Tenancies Board, are conducting research into the experiences of Traveller families in private rented accommodation and will report their findings to the Minister on completion.

90. With respect to paragraph 75 of the ERRC Replies, Ireland denies that the overall effect of its extensive efforts to accommodate Travellers according to their expressed preferences is to "*shunt*" Travellers into permanent housing and Ireland submits that it is fully supportive of Traveller nomadic lifestyle. Nor is there any basis for the ERRC to make groundless allegations that this is the purpose of Ireland's efforts. Further, it is unhelpful for the ERRC to attempt to draw false analogies between budget allocations in England where national tax revenue far outstrips that collected in Ireland and where no major fiscal constraints have been in place.

V RELEVANT DOMESTIC LAW

91. Contrary to paragraph 76 of the ERRC Replies, Ireland's legislation on evictions is not incompatible with the Charter and all obligations under the Charter regarding forced evictions are complied with. Further, as was previously stated, guidelines on the conduct of evictions are in the process of being drafted in consultation with the NTACC.

V.1 The Criminal Justice (Public Order) Act 1994 (as amended)

92. Contrary to paragraphs 77 and 78 of the ERRC Replies, the Public Order Act is a finely balanced instrument designed to protect the property rights of landowners. It is for this reason that the legislation concerns itself only with situations where the entry or occupation of land is likely to: cause damage to the land or substantially interfere with the land or its use or any amenity thereon; or, render the land or any amenity thereon unsafe or unsanitary.¹⁸ As was outlined in footnote 59 of the Government's Observations, the legislation was not adopted for the purposes of persecuting Travellers in genuine need of accommodation but, rather, emerged in response to problems with large scale commercial trader encampments causing damage and interference to the land. The provision does not replace the system of Section 10 notices under the Housing (Miscellaneous Provisions) Act 1992 (as amended).
93. As was previously outlined at paragraph 92 of the Government's Observations, the use of the word "*likely*" is not understood and certainly does not mean that a "*mere potential*" of harm justifies the use of legislation. The suggestion, at paragraph 78 of the ERRC Replies, that An Garda Síochána would use the legislation maliciously against Travellers is denied. The legislation is employed *only* when necessary to protect the legitimate interests of landowners. Further, the Gardaí have stated that these powers are not used on the initiative of individual police officers as appears to be suggested *inter alia* at paragraph 121 of the ERRC Replies. In no circumstances will the Gardaí use the legislation when not requested to do so by the landowner. Rather, use of the criminal trespass provisions is ordinarily limited to situations where the Gardaí have received a written request from the landowner concerned. Only in extreme circumstances will an oral request be deemed sufficient to justify the use of the provisions. Moreover, the Gardaí will not utilise criminal legislation when the alleged trespasser alleges he or she has the consent of the landowner. In those circumstances, a landowner may avail of civil remedies.
94. In response to paragraph 79 of the ERRC Replies, Ireland maintains its position, as outlined in paragraph 64 of the Government's Observations, that a reversed evidential

¹⁸ Section 19C Criminal Justice (Public Order) Act 1994.

burden does not violate the presumption of innocence. Such a reversal is entirely appropriate given that whether or not an occupier has the consent of the owner is entirely within his knowledge. Further, it is reiterated that, in reality, these powers are typically exercised at the request of the landowner. In any event, as is outlined in paragraph 63 of the Government's Observations, in order to make their case, the prosecution would have to establish the additional matters referred to in Section 19C beyond reasonable doubt.

95. The ERRC's reference in paragraph 80 to the Irish Human Rights Commission's submissions in *Lawrence & others v Ballina Town Council & Ors* (July 2008) is misleading. The interpretation of the Public Order Act forwarded is not one which has been decided upon by the Irish courts and, in any event, those proceedings eventually reached an equitable settlement.
96. With regard to paragraph 81 of the ERRC Replies, it is reiterated that the impact of the *Rousk* judgment is to require suspensive relief prior to the execution of an eviction order when the order is challenged by the subject of the eviction. This is clear from the extract from the *Winterstein* judgment, which states that the requirement for review by an independent tribunal before the eviction takes place comes into effect "*lorsque des argument pertinent concernant la proportionnalité de l'ingérence ont été soulevés par le requérant dans les procédures judiciaires internes.*" This interpretation is further supported by the quotation taken from paragraph 139 of the *Rousk* judgment which states that the eviction should be postponed "*until the underlying contentious issues have been resolved.*" Ireland submits that, as a matter of Irish law, any person may seek judicial review of an eviction order made against him and may seek *ex parte* injunctive relief where that person believes that the eviction is wrongful.¹⁹
97. In response to paragraph 82, the ERRC criticises the deterrent effect of the Public Order Act. However, Ireland submits that all criminal legislation inherently relies on a certain level of deterrence caused by the fact of criminalisation. In this instance, it is indeed part of the effectiveness of the Public Order Act to deter Travellers from

¹⁹ Ireland reiterates that *McDonagh v Kilkenny County Council* [2011] 3 IR 455 is one example of a case in which the family concerned obtained interim relief in advance of the hearing of their substantive case.

occupying land without first seeking the consent of the landowner or, at a minimum, to deter said persons from attempting to carry out such occupation in a manner likely to substantially interfere with the land or its amenities.

98. Further, with regard to paragraph 84 of the ERRC Replies, Ireland submits that the difficulties experienced in dealing with large commercial trader encampments causing damage to land and amenities which were the impetus for the enactment of the Public Order legislation demonstrated that other provisions of Irish criminal law did not sufficiently cover this scenario. Ireland further submits that the Public Order legislation is a proportionate means of addressing this specific harm.
99. In response to the ERRC's statement at paragraph 84 of its Replies, the Government's Observations did not fail to respond to the allegation that the Public Order Act is indirectly discriminatory. Ireland reiterates the points made at paragraphs 65 and 113 of the Government's Observations that the legislation is of general application and does not discriminate against Travellers. The Act can apply to any entrant on to or occupier of land in circumstances where the same is likely to have deleterious effects.²⁰ Further, the parliamentary debates to which the ERRC refer (and which were annexed to the Government's Observations) clearly show that the legislation was enacted not in order to persecute Travellers in genuine need of accommodation but to prevent damage to the land by large commercial trader encampments. The challenges posed by such encampments were considered to be inadequately catered for by the existing statutory powers available.

V.2 Section 10 of the Housing (Miscellaneous Provisions) Act 1992 (as amended)

100. No response is required in relation to paragraph 85 of the ERRC Replies.

V.3 Section 69 of the Roads Act 1993

101. With regard to paragraph 86, Ireland submits that a situation where a caravan may be obstructing a public road is in no way analogous to the situation which was under

²⁰ Indeed, by way of example, the Act was recently used to disperse a large encampment of "Occupy" protesters on Dame Street in Dublin City.

consideration in *Rousk v Sweden* (as outlined above). A requirement to allow the subject of a notice under the Roads Act an opportunity to challenge his eviction would undermine the road safety imperatives upon which that Act is premised and which the ERRC accepts.

102. With regard to paragraph 87 of the ERRC Replies, the ERRC is not entitled to base an argument for the incompatibility of a piece of legislation with the Charter on the purely theoretical possibility existing under that Act of its scope being extended to include other roads. As was highlighted in paragraph 68 of the Government's Observations, 94% of the roads in Ireland do not currently come within the scope of the legislation and erecting a temporary dwelling on those roads which *do* come within the scope of the provision has serious road safety implications.
103. Contrary to paragraph 88 of the ERRC Replies, Ireland reaffirms its position that the Roads Act is a general provision enacted in the interests of road safety and the common good and is not aimed at travellers but indeed at *any* person who erects a temporary dwelling by the roadside. Further, as has been previously stated, it is the general practice in many Local Authorities to offer alternative accommodation to persons being evicted.
104. In response to paragraph 89 of the ERRC Replies, the Roads Act expressly provides that a temporary dwelling can be erected by the roadside with the consent of a road authority. As was previously stated at paragraph 70 of the Government's Observations, such consent would only be granted in exceptional circumstances given the clear road safety imperatives pursued.
105. Clare and Monaghan County Councils confirm that they utilised the Roads Act in only the instances referred to by the ERRC, and on no other occasion.

V.4 Sections 46 & 160 of the Planning and Development Act 2000

106. Ireland has no additional comments to make regarding the provisions of the Planning and Development Act 2000 save to reiterate that, contrary to the ERRC's assertions at paragraph 91 and as was previously stated at paragraph 73 of the Government's

Observations, the impugned provisions are specific remedial legislative measures to be utilised in the enforcement of planning law in respect of unauthorised developments. The planning policies of Local Authorities include provision for Travellers, and adequately take their rights into account. With regard to the ERRC's allegation, the Department of Environment, Community and Local Government (Housing Policy Development and Management Section) does collect statistics from local authorities on the use of Section 160. However this information does not include information on whether the persons concerned are Travellers.

V.5 Local Government (Sanitary Services) Act 1948

107. With regard to paragraph 92 of the ERRC Replies, Ireland reaffirms its view that the provisions of the 1948 Act are justified by the public interest in the protection of human health (including that of Travellers). The Act deals with a discrete category of harm in a proportionate manner.

V.6 Section 111 of the Public Health (Ireland) Act 1878 (as amended)

108. Contrary to paragraph 93 of the ERRC Replies, the 1878 Act is not part of a "*comprehensive suite of legislative measures to impede the exercise of Travellers' way of life*". No such suite of measures exists in Ireland. Rather, the impugned provision is designed to provide a mechanism for dealing with a specific type of harm (public health nuisances). The ERRC has once again failed to specify how the measure has a specific impact on the Travelling Community.

VI IRELAND'S REPLY TO THE ALLEGED VIOLATIONS OF ARTICLES 16, 17 AND 30 IN CONJUNCTION WITH ARTICLE E

VI.1 The Scope of the Complaint

109. Ireland denies the allegation made at paragraph 94 of the ERRC Replies that the decline in nomadism is due to allegedly assimilationist policies (which are denied). Further, Ireland reaffirms the description of the historical nature of Traveller nomadism at paragraph 77 of the Government's Observations. In addition, the ERRC make reference to the Report of the Commission on Itinerancy (1963) which did relate

to an assimilationist phase in the Irish Government's approach towards the Traveller Community. Not only does this Report pre-date Ireland's ratification of the Revised Social Charter, it actually pre-dates Ireland's adoption of the original Social Charter in 1964. This assimilationist approach was only one stage in Ireland's policies towards the Traveller Community and was abandoned in favour of the integrationist approach detailed in the Report of the Travelling People Review Body (1983) which was later followed by an intercultural approach following the 1995 Report of the Task Force on the Travelling Community.

110. In response to paragraph 95 of the ERRC Replies, Ireland is working constantly to reduce the number of Traveller families living on unauthorised sites. Ireland denies that its legislation can be described as "*draconian*".
111. The results of informal opinion polls which are given at paragraph 96 of the ERRC Replies are hearsay to which Ireland is unable to respond in any detail given the lack of specificity of same and the absence of any details as to the persons consulted or the methodology adopted. However, Ireland reaffirms its position that Traveller accommodation is provided according to the expressed preferences of Travellers. Failures by Travellers to make known their preference are not the responsibility of the Irish Government. Further, Ireland submits that it is inappropriate for the ERRC to directly quote unnamed individuals in the context of a Collective Complaint as it has done at paragraphs 97 and 98.
112. With regard to paragraph 98 of the ERRC Replies, the recommendations contained in the Report on the Recognition of Traveller Ethnicity by the Joint Committee on Justice, Defence and Equality form part of the ongoing consideration of this issue which is underway in the Irish Department of Justice and Equality. The Department has been in consultation over the last 18 months with relevant Government Departments and NGOs in relation to the issue of the recognition of Travellers as an Ethnic Group and any legal or practical implications arising. The outcome of those consultations is subject to continuing consideration. In addition, the Department has engaged with the UK and Northern Ireland administrations with a view to gaining an insight into the implications arising on foot of granting ethnicity to Irish Travellers in those jurisdictions. The examination of all relevant issues should shortly be brought

to a conclusion, with a view to ensuring that a full analysis of all aspects of recognising Travellers as an ethnic group is available to Government when coming to a decision on the matter. Further, Ireland has at no point suggested that Article E does not apply to Travellers.

VI.2 Evictions

113. Ireland reaffirms its view that neither the eviction legislation in place in Ireland nor the *de facto* situation with regard to the eviction of Travellers are in violation of Articles 16, 17 or 30 of the Charter, whether read alone or in conjunction with Article E.
114. Contrary to paragraph 100 of the ERRC Replies, Ireland submits that each of the impugned pieces of legislation is designed to address a distinct type of harm in the public interest. The legislation does not – either individually or taken together – criminalise nomadism.
115. In response to paragraph 101 of the ERRC Replies, Ireland reiterates its previous submission at paragraph 82 of the Government’s Observations that the Criminal Justice (Public Order) Act 1994 is objectively justified by the purpose of the legislation and is proportionate to that justification.
116. With regard to paragraph 102 of the ERRC Replies, Ireland maintains its position regarding the nature of Section 10 of the Housing (Miscellaneous Provisions) Act 1992: it is justified for the purposes of furthering the legitimate housing policies of the State with regard to Travellers. As previously stated, the KW & Associates Research report is being considered by the Irish Government and a subgroup composed of members of the NTACC and the Private Residential Tenancies Board is conducting further research.

VI.2.i Legislation on evictions

The Criminal Justice (Public Order) Act 1994

117. Contrary to paragraph 103 of the ERRC Replies, Ireland submits that, as outlined above at paragraph 80, on a correct interpretation, Section 19C of the 1994 Act is not vague. Even if it were the case that the Act was unduly vague, it is a well-established principle of Irish Constitutional law that a criminal offence can be found unconstitutional for vagueness. In *McDonagh v Kilkenny County Council* [2007] IEHC 350, O’Neill J held that the offence was not vague in a manner that contravened the protections afforded by the Constitution or the ECHR.
118. With regard to paragraph 104 of the ERRC Replies, the ERRC has made a number of contradictory assertions. While initially stating that the Garda PULSE system is not a suitable system for recording evictions, the ERRC then suggest that the existence of Garda PULSE records somehow runs contrary to Ireland’s previous assertion that no such centralised records of evictions exist. Ireland agrees with the ERRC that the PULSE system is a record of criminality and is not necessarily a detailed register of the circumstances of a particular case that may be preferable when recording evictions. However, it was this function as a record of criminality which was at issue in paragraph 86 of the Government’s Observations. Further, the details on the PULSE system reflect reported incidents whereby Section 19C of the Public Order Act was utilised. Such incidents do not necessarily result in criminal prosecution and may be resolved before they go to that stage.

The allegation that the law is unduly wide and is unreasonable and disproportionate

119. Without prejudice to its view that the ERRC’s Collective Complaint was founded on an erroneous interpretation of Section 19C, Ireland denies the ERRC’s allegation at paragraphs 105 and 106 of the ERRC Replies that the provisions of the Criminal Justice (Public Order) Act 1994 are vague. The standard of “*likely*” adopted by the Act is entirely suited to the protection of a landowner’s property against damage and is treated as meaning that such damage is “*more probable than not*”. Further, it is simply not the case that a likelihood of any damage or interference with the land or its

amenities *alone* will trigger the operation of Section 19C. The level of damage or interference which must be likely to occur must either: “*substantially*” damage the land; “*substantially and prejudicially*” affect any amenity in respect of the land; prevent persons entitled to use the land or any amenity in respect of the land from making reasonable use of the land or amenity; otherwise render the land or any amenity in respect of the land or the lawful use of the land or any amenity in respect of the land, unsanitary or unsafe; or, “*substantially*” interfere with the land, any amenity in respect of the land, the lawful use of the land or any amenity in respect of the land. Therefore, the Act will only be triggered where, in the absence of the landowner’s consent to the occupation, the damage or interference which is likely to affect the land or its amenities is substantial in nature. The Gardaí give detailed consideration to the circumstances of individual cases and, where a minor (under 18) is involved, the Irish Child and Family Agency (TUSLA) and the Health Services Executive are notified.

120. In addition, the ERRC’s statement that jurisprudence of the European Court of Human Rights “*demands prior judicial consideration of the proportionality of every eviction*” (no doubt another reference to the *Rousk v Sweden* judgment) is misleading. As previously discussed, the *Rousk* judgment could only be interpreted as requiring the opportunity to challenge eviction orders prior to the eviction taking place. Ireland submits once more that national judicial review procedures are in place which allow for this possibility.
121. With regard to paragraph 107 of the ERRC Replies, Ireland denies the allegation that Section 19C of the Criminal Justice (Public Order) Act 1994 is contrary to the provisions of the Charter. Further, the ERRC’s allegation that the enactment of the Public Order Act “sent the signal to the Gardaí that the legislation was to be used against Travellers” is unfounded. As was previously stated, the legislative history of the provision related to the difficulties involved in dealing with large commercial trader encampments.
122. At paragraph 109 of the ERRC Replies, the ERRC discusses issues in relation to perceived racial profiling by An Garda Síochána. This issue was previously addressed at paragraph 115 of the Government’s Observations: the Human Rights Audit of Irish

Police in 2005 did identify a number of statements made by some police officers that could have been seen as evidence of institutional racism. The recommendations in this report have been followed. In particular, the Gardaí have placed a new emphasis on community engagement, involvement and partnership with the establishment of liaison networks to build relationships with ethnic communities including 390 trained Ethnic Liaison Officers. They have also sought to recruit members from more diverse backgrounds by lowering barriers that have traditionally stood in their way (though this was hampered by the moratorium on recruitment that operated from 2009 to 2013). In any event, any individual Traveller who feels he has been mistreated by the Gardaí has the option of making a complaint to the Garda Síochána Ombudsman Commission.

123. In response to paragraph 110, the distinction between Sections 13 and 8(1)(b) as opposed to Section 19C of the Criminal Justice (Public Order) Act 1994 is premised largely upon the risk of substantial damage or interference with the land or its amenities which is a necessary component of the latter provision. Sections 13 and 8(1)(b) are designed to deal with isolated incidences of trespass and loitering respectively. Ireland denies the allegation that Section 19C is indirectly discriminatory against Travellers and reaffirms its views as outlined in paragraphs 113 and 114 of the Government's Observations. In particular, it is submitted that the preferred mechanism normally used in respect of Travellers is the Section 10 Notice under the Housing (Miscellaneous Provisions) Act 1992 and that the criminal trespass legislation is only used in exceptional circumstances where property is likely to be *substantially* damaged and, in the case of Travellers, where Section 10 Notices are inappropriate.
124. In response to paragraph 111 of the ERRC Replies, Ireland has already outlined its views with regard to the ERRC's reliance on the Human Rights Commission's submissions in paragraph 95 above. Ireland notes that the ERRC have not argued that the aims of public health and public order are not pursued by the Public Order provisions and Ireland submits that the provisions are not disproportionate to these aims.

125. With regard to paragraph 112 to 114 of the ERRC Replies, Ireland submits that Section 19C is not designed to address the “*greater accommodation needs*” of the Traveller Community. It is a criminal law provision aimed at preventing specific harms that may arise from illegal entry and occupation of land. In response to the allegations at paragraph 114, all criminal law provisions are intended to have a deterrent effect, otherwise the justice system would be inundated. The fact that trespassers who are likely to cause the type of harm targeted by Section 19C are effectively warned of this and are not necessarily prosecuted is, in Ireland’s submission, a more proportionate response than a system whereby such persons would be automatically prosecuted.
126. Further, contrary to paragraph 113 of the ERRC Replies, Ireland reaffirms its submission that Local Authorities use the Section 10 Notice system in the first instance when dealing with Travellers in genuine need of accommodation (as was advised by the NTACC). In any event, whereas Ireland clearly recognises and is working towards the realisation of the rights of all persons to housing (as derived from Article 16 of the Charter), no person enjoys a “*fundamental right*” to enter and occupy the land of another in a manner that is likely to cause substantial damage to or interference with that land. Therefore, criminal provision aimed at preventing such harm cannot leave them in any uncertainty as to the same. In this respect, the *Modinos v Cyprus* judgment cited by the ERRC – which dealt with the uncertainty created by the existence in the Cypriot Criminal Code of a provision criminalising homosexuality – is not at all comparable.

The alleged lack of due process consistent with the rights of those affected

127. Contrary to paragraph 115 of the ERRC Replies, Ireland reaffirms its position that the criminal trespass provisions do meet all of the criteria laid out in the *ERRC v Italy* decision.²¹

Notice periods and defences

128. In response to paragraphs 116 to 119 of the ERRC Replies, Ireland reiterates that Gardaí are not precluded from giving reasonable notice periods according to the circumstances of an individual case such as where the continuation of occupation for a short period will not substantially damage or interfere with the land. In practice, the affected person is given at least 24 hours notice and this will only be after the Gardaí have attempted to negotiate with that person.

129. In any event, as was previously stated, the preferred mechanism for dealing with Traveller families in genuine need of accommodation is the Section 10 Notice system. The criminal trespass legislation is an entirely separate mechanism which is only triggered when an illegal occupation is likely to cause substantial harm to the land or its amenities.

130. Ireland rejects the allegation at paragraph 117 of the ERRC Replies that the legislation is “*coercing Travellers into abandoning their way of life*” in the manner alleged or at all.

131. Further, contrary to paragraph 119 of the ERRC Replies, Ireland submits that the ERRC’s position is that, faced with an unwanted illegal occupation causing substantial damage to or interference with their land, a landowner would be left without a remedy. Such a state of affairs would place virtually no value on the rights of a landowner. The threshold of *likely* to cause substantial harm is not a low standard as the ERRC suggests and the measure is not designed to be used against Travellers in genuine need of accommodation. As outlined above, the *Winterstein v France*

²¹*ERRC v Italy*, Complaint No. 27/2004, “Decision on the Merits” of 7 December 2005, paragraph 41.

judgment, upon which the ERRC repeatedly place emphasis, can be confined to its own unique facts as is clear from the language of the Court’s judgment.

The onus of proof

132. In response to paragraph 120 of the ERRC Replies, Ireland reiterates that the presumption that there is a lack of consent in the context of an alleged illegal occupation likely to cause damage to or interference with the land or its amenities is appropriate. There is a wealth of Irish constitutional jurisprudence supporting the view that a reversed evidential burden does not violate the presumption of innocence.²²
133. In any event, the Gardaí state that, where there is an actual dispute as to consent, a removal will not take place.

The possibility of judicial review

134. With regard to paragraph 121 of the ERRC Replies, Ireland submits that, as was stated in the Government’s Observations at paragraph 101, affected persons can and have been granted interim relief against police action under the criminal trespass legislation. Indeed, the Irish legal test for the grant of injunctive relief – whether the “*balance of convenience*” favours the grant of an injunction – would likely be found to favour a Traveller family with no alternative accommodation. With regard to the ERRC’s comments as to the procedure followed by the Gardaí, Ireland has already outlined that the ERRC’s suggestion that Irish police employ the Public Order provisions on their own initiative is incorrect. Rather, use of the criminal trespass provisions is ordinarily limited to situations where the Gardaí have received a written request from the landowner concerned. Only in extreme circumstances will an oral request be deemed sufficient to justify the use of the provisions. As has been outlined above, Gardaí then attempt to negotiate with affected persons in advance of employing their statutory powers. Finally, in practice, the Gardaí give at least 24

²² *O’Leary v Attorney General* [1993] 1 IR 102 (Annex 42)

hours notice to the affected person. As such, the scenario forwarded by the ERRC, of Gardaí targeting Travellers and immediately removing them is not accurate.

135. Ireland also submits that legal costs in the Irish courts system are not at issue before the Committee and, in any event, the ERRC point to availability of pro bono legal advice and representation from the Irish Traveller Movement's Law Centre. [FLAC]
136. First, Ireland does support the provision of free legal advice in the State, through both its statutory scheme under the Legal Aid Board, and direct funding of the Irish Free Legal Advice Centre (FLAC) including €98,000 per annum in support of their helpline between 2009 and 2014.
137. Second, it is misleading for the ITM to assert that its Law Centre receives no State funding in circumstances where it receives general funding from the Irish Government for its activities. The Irish Government provides significant funding for the Irish Traveller Movement (ITM). The Irish exchequer funds two national Accommodation Officers engaged by the ITM. The second position was approved in 2009 in order to facilitate the CENA project discussed above at paragraphs 82 to 84. This second officer post was for a range of activities, including continued support of the LTACCs, review of the Annual Count of Traveller families, review of the progress and problems on transient site provision, assessing the effectiveness of the consultant guidelines and their implementation and successful roll-out of the conflict management strategy developed by the ITM.
138. The Department recoups 90% of the salary and incidental expenses for these two posts, along with providing funding for the development of the CENA website and launch and the audit fees for CENA. Since 2009 over €488,864.41 has been recouped by the Traveller Accommodation Unit in the Department for this purpose.
139. The ITM also receives funding under the Scheme to Support National Organisations, which provides multi-annual funding to national organisations towards core costs associated with the provision of services. Over the period 2010 to 2013, the ITM received €428,608 under the Scheme. For the first 6 months of 2014, €41,448 was paid to the ITM. A new Scheme to Support National Organisations scheme

commenced on 1 July 2014 to run for a 2 year period. Following a competitive application and appraisal process, the ITM were successful and were approved for funding of €156,407 over the 24 month period.

The alleged loss of homes

140. Contrary to paragraph 122 of the ERRC Replies, Ireland reaffirms its position that the loss of property is a theoretical possibility. The ERRC's comment that the specific incident at paragraph 79 of their Collective Complaint evidences such a loss of property is misleading. Paragraph 79 – as it is laid out in the Collective Complaint – describes an incident that took place pursuant to a Section 10 notice and not the criminal trespass legislation. Under Section 10, the owner of a removed caravan can reclaim it within one month of it having been removed.²³

The alleged requirement that the legislation should take into account infringement of other rights and the fact that the Public Order Act does not require an assessment of alternative accommodation

141. At paragraph 123 of the ERRC Replies, the ERRC relies once again on the *Winterstein v France* judgment. Ireland reiterates its position that this ruling was, by the Court's own words, entirely dependent on its own factual matrix. Moreover, the ERRC's quotation, taken from paragraph 159, is misleading when taken out of this context. Further, at no point did the Government's Observations refer to Local Authorities "*often*" making use of the criminal trespass legislation. As has been previously stated, Local Authorities prefer the use of Section 10 notices when dealing with Traveller families in genuine need of accommodation. Paragraph 104 of the Government's Observations outlined that, where Local Authorities are forced to make use of the criminal trespass legislation, it is general practice to first consult with the affected persons. Further, the use of the criminal trespass legislation by Local Authorities is conditioned by guidelines issued by the NTACC which provide that Local Authorities should first consider the housing status of the affected person and, if

²³ Section 10(8) of the Housing (Miscellaneous Provisions) Act 1992.

that person is awaiting housing, the Section 10 notice system is to be preferred.²⁴ Ireland denies that the criminal trespass provisions are arbitrary. In addition, as stated above, eviction guidelines are in the process of being drafted in conjunction with the NTACC which will fully codify the Charter-compliant practices already in operation in the State.

142. Contrary to paragraph 125 of the ERRC Replies and as was clearly stated at paragraph 105 of the Government's Observations, use of the Public Order Act does not affect an affected person's position on the Local Authority's housing list – including where the person is relocated outside that Local Authority's administrative area. This is the uniform position of Local Authorities as was recommended by the NTACC.
143. Further, the Gardaí, in employing the legislation, give detailed consideration to the circumstances of individual cases and, where a minor (person under 18) is involved, the Irish Child and Family Agency (TUSLA) and the Health Services Executive are automatically notified. These social workers and other agents are the appropriate bodies to deal with ongoing care of a family.

The alleged lack of respect for nomadic lifestyle

144. Contrary to paragraph 126 and 127 of the ERRC Replies, Ireland submits that the provisions of the Public Order Act do not criminalise nomadism and the decline in nomadism in Ireland is not being caused by the State. On the contrary, the report of the NTACC cited at paragraph 107 of the Government's Observations highlights this decline.
145. Further, Section 6 of the Housing (Traveller Accommodation) Act 1998 is a binding requirement on Local Authorities to consider the provision of transient sites in their Traveller Accommodation Programmes and not a "*request*".
146. In addition, a requirement for Travellers to secure the consent of a landowner to enter and occupy part of his land is not an unduly onerous requirement.

²⁴Annex 9 to the Government's Observations.

147. Ireland denies that the criminal trespass legislation is applied subjectively and reiterates that notice periods are not precluded by the legislation.
148. With regard to paragraph 128 of the ERRC Replies concerning the provision of transient sites, Ireland has already detailed the difficulties that have arisen across all Local Authority areas with regard to the provision of these sites. In particular, little demand has been seen for such sites where they are provided. Certain Local Authorities have indicated that the provision of such sites should be coordinated at a regional or national level and this will be taken into consideration. With regard to the allegation at paragraph 128(g), Kilkenny County Council states that the quotes included by the ERRC were actually views expressed by Travellers met as part of the consultation process undertaken by the Council in preparing their Traveller Accommodation Programme and are not the views of the Council. The Travellers concerned specifically requested that their views be documented.

Local Authorities

149. Contrary to paragraph 129 of the ERRC Replies, the preference in favour of using Section 10 notices where Travellers are to be evicted is a policy which emerges from the NTACC's recommendations in its 2004 Report. Ireland further reiterates its position that in most cases Traveller families will be consulted in advance of issuing a notice under Section 10. A Section 10 notice is used when these negotiations break down. The allegations from various local Traveller groups at paragraph 129 are too vague to respond to.
150. In response to paragraph 130 and 131, while the State has not conducted an attitudinal study with regard to the decline in nomadism, this decline is well-documented by the Housing Needs Assessments carried out in each Local Authority. The State's resources, especially in times of economic difficulty, must be allocated on the basis of the expressed preference of the recipients and not on the basis that those same recipients have historically been nomadic.

The allegation of discrimination

151. Contrary to paragraph 132, the Government's Observations clearly stated that the criminal trespass legislation is of general application and does not discriminate against Travellers. By way of example it was stated that the Occupy Dame Street protest was removed using the Public Order Act – these protestors were neither Travellers nor homeless as the ERRC contend. Various protests, such as the “*Reclaim the Streets*” protest in Galway city and the M3 Motorway dispute at the Hill of Tara in County Meath, are also dispersed using this legislation.

Section 10 Notices under the Housing (Miscellaneous Provisions) Act 1992

152. In relation to paragraph 138 of the ERRC Replies, the recommendations referred to have been adopted and circulated and the NTACC is currently considering the issue of eviction guidelines for local authorities which will be forwarded to the Committee when available.

Alleged lack of due process

153. In response to paragraph 139 of the ERRC Replies, Ireland reiterates that, in practice, all the requirements of the decision in *ERRC v Greece* are complied with. The ERRC's allegations that Section 10 is inconsistently or arbitrarily applied are denied.

The obligation to consult the affected persons

154. With regard to paragraphs 140 and 141 of the ERRC Replies, as previously stated, it is general practice among Local Authorities to consult with affected persons in advance of issuing a Section 10 Notice and, in any event, the Housing Needs Assessment provides Local Authorities with information regarding the housing needs of such families.

The period of notice

155. Contrary to paragraph 142 of the ERRC Replies and as was previously stated at paragraph 123 of the Government's Observations, while the minimum notice period for a Section 10 notice is 24 hours, in reality a detailed consultation process will take place before the issuing of such a notice and the effective notice period is much longer.

The appellate mechanism

156. In relation to paragraph 143 of the ERRC Replies, Ireland reiterates that the efficiency and costs of Irish legal proceedings is not a matter for complaint under the ECSR. Further, the Government's Observations identified, at paragraph 124, two cases as proof that injunctions could be obtained – injunctions were granted in both cases and overturned on appeal in one. This was not intended to be an exhaustive list of all cases in which an injunction had been granted as was indicated by the words "*at least two reported cases*".

The alleged lack of adequate provision of alternative and appropriate accommodation

157. Contrary to paragraph 144 of the ERRC Replies and as outlined above, the *Winterstein* judgment did not suggest a general duty to provide alternative accommodation in every case. The duty imposed in that case was stated to be exceptional and dependent on the circumstances at issue.
158. With regard to paragraph 145 of the ERRC Replies, Ireland submits that in circumstances where Section 10(1) b of the Housing (Miscellaneous Provisions) Act 1992 is put into effect, the general practice is to avoid moving that family great distances from where they reside. However, where this is not possible, each Traveller family will be provided with a case specific solution.
159. With regard to paragraph 146 of the ERRC Replies, it is Ireland's position that a requirement to provide alternative accommodation when implementing Section

10(1)(c) (which deals with illegal parking causing interference with existing Traveller-specific accommodation) would hamper its operation. Ireland submits that, in these scenarios, the prudent application of discretion provides the best outcome for the affected families.

The alleged violation of Article 17 – interference with education of the child

160. The Department of Education and Skills (DES) has provided more recent data in response to the ERRC's comments at paragraph 147 of its Replies. DES states that, as of 2014, 8,047 children in primary education were identified as being Travellers and 2,588 in post primary education. Participation rates for Traveller children in post primary education have increased dramatically. In the junior cycle, 1,807 Traveller students attended in 2012/13 where 1,598 were attending in 2004/5. Similarly, in the senior cycle, figures for the same periods have increased from 260 students to 722 students. At third level, 26 students were identified as Travellers in 2012/13.
161. The ERRC make a number of allegations regarding Traveller education at paragraphs 147 to 152 of its Replies but omit to mention that a number of the issues referred to emerge from the Report and Recommendations for a Traveller Education Strategy:
- (a) With regard to the Visiting Teachers programme, in September 2009 responsibility for the Visiting Teachers Service for Travellers transferred from the Department of Education and Skills to the National Education Welfare Board (NEWB), the statutory body with responsibility for educational welfare, in order that it could become part of an integrated service model for the delivery of all educational welfare services. While the Visiting Teachers Service was withdrawn in 2011, educational welfare services for all children, including members of the Traveller community are now delivered through the 'One Child' integrated service delivery model of what is now TUSLA – the Child and Family Agency. Key supports under this integrated service model include the Home School Community Liaison Scheme and the School Completion Programme which are of particular value to Traveller children and their families. The disbanding of the Visiting Teacher Service represented the

removal of segregated Traveller provision in accordance with the Report and Recommendations for a Traveller Education Strategy;

- (b) As education provision for Traveller children and young people is now made available within the mainstream education system, the cost of provision for this group – or any particular group - in individual programme areas is not calculated separately. Some resources previously allocated to Traveller-specific programmes have been reallocated to mainstream provision. For example, Resource Teaching posts for Travellers have been retained in the system to implement alleviation measures in schools to offset the impact over time of the withdrawal of Resource Teachers for Travellers;
- (c) Traveller children are also now accommodated within mainstream school transport provision rather than the previous method of segregated provision. This is in accordance with the Report and Recommendations for a Traveller Education Strategy which states in respect of primary and post primary pupils that *"Traveller children should use mainstream school transport in operation at present. Only in exceptional circumstances based on special needs should special transport be provided as a positive action measure"*. As a continuing positive measure, Traveller children availing of exceptional transport arrangements who meet the distance criterion are allowed retain their transport eligibility for the duration of their education at their current school of attendance;
- (d) In addition, Traveller children are now included in the valid enrolment for the purposes of allocating additional teaching resources in DEIS schools (Delivering Equality of Opportunity in Schools), the Department's action plan for educational inclusion; and for the purposes of allocating additional teaching resources under the Revised General Allocation Model for high incidence special educational needs;
- (e) In line with the Traveller Education Strategy and the 2008 Value for Money review of Senior Traveller Training Centres (STTCs), further education and training provision for Travellers is now provided within the mainstream

system. STTCs were phased out in June 2012 and replacement places were provided under the Back to Education Initiative (BTEI);

(f) All Adult and Further Education and Training programmes funded by DES are open to Travellers. These include part-time programmes funded under the Adult Literacy and Community Education scheme and the Back to Education Initiative as well as full-time programmes such as Youthreach, Vocational Training Opportunities Scheme and the Post-Leaving Certificate programme;

(g) Expenditure by the Department of Education and Skills on DEIS in 2013/14 was €99.4m. An additional €36.8m was spent by the Department of Social Welfare on the School Meals Programme, and €24.75m by the Department of Children and Youth Affairs was spent on the School Completion Programme.

162. Further, the ERRC referred to the 2013 “*Travelling with Austerity*” report which was commissioned by Pavee Point. DES provided corrections and clarifications in relation to inaccuracies in the text which were not included in the published document. The reference to an 86.6% cut in funding for traveller education relates to the reduction in funding for Traveller-specific measures such as Resource Teachers for Travellers, the Visiting Teacher Service and the phasing out of the Senior Traveller Training Centres. It does not take account of the portion of the funding previously allocated to such segregated provision which is now allocated to mainstream programmes availed of by Travellers.

163. Thus, the phasing out of segregated education provision for Travellers and its replacement with mainstream provision is in accordance with the agreed *Report and Recommendations for a Traveller Education Strategy*. A key aim of the Strategy is to ensure that additional resources are allocated to Traveller children within the mainstream education system, on the basis of identified individual educational need. Traveller representative bodies were key stakeholders in this process and continue to be involved in the implementation of the Strategy through their membership of the DES’ Traveller Education Consultative Forum.

164. The Travelling with Austerity Report does not acknowledge the mainstreaming measures which have been implemented in recent years or the additional resources allocated to accommodate Travellers throughout the education continuum from pre-school to third level.
165. Further, with regard to the ERRC's allegations of a lack of data, DES is currently revising the collection and collation of data on Traveller pupils through the Primary Census form for primary pupils and through the Post-Primary Pupil Database for post-primary pupils which will facilitate improved monitoring of progression and attainment of Travellers across the primary and post-primary school sectors.
166. The Primary Online Database (POD) will replace the current annual census of primary schools, and will involve schools maintaining and returning data on pupils to DES at individual pupil level on a live web-based system. The database will allow DES to more closely monitor and evaluate progress and outcomes of pupils at primary level, to validate school enrolment returns for grant payment and teacher allocation purposes, and to follow up on pupils who do not make the transfer from primary to post primary level.
167. The main population of the database with existing pupil data will take place during the 2014/2015 academic year, and the database is scheduled to be fully operational in the 2015/2016 academic year.
168. Traveller representative groups will be aware of these developments through their participation in the Traveller Education Strategy Advisory and Consultative Forum.

The alleged violation of Article 30

169. Contrary to paragraph 134 of the ERRC Replies and as was described in paragraph 134 of the Government's Observations, Section 10 notices are part of a co-ordinated overall approach designed to meet the housing needs of Travellers. Further, contrary to the allegations made by the ERRC, Traveller families are consulted regarding their accommodation needs prior to the serving of Section 10 notices via the Housing Needs Assessment. The ERRC quotes from paragraph 121 of the Government's

Observations to support its contention that individual consultation only takes place after a notice has been served but that same paragraph clearly states that: *“it is the general practice of Local Authorities, whether express or customary, to consult with the persons affected before issuing a notice”*. The fact of such early consultation also gives Travellers advance notice of the difficulties created by their occupation.

Other legislation referred to in the Collective Complaint

170. In response to paragraph 154, Ireland reaffirms its position that neither the original Collective Complaint nor the ERRC Replies disclose any specific information regarding the Roads Act 1993, the Planning and Development Act 2000, the Local Government (Sanitary Services) Act 1948 and the Public Health (Ireland) Act 1878 (all as amended). Ireland maintains that, as stated above, these provisions are designed to deal with very specific and discrete harms and are proportionate to these aims.

VI.2.ii Evictions in Practice

171. With regard to paragraph 155 of the ERRC Replies, while Ireland has already conceded that no centralised records of evictions are maintained, consultation with Local Authorities and analysis of samples of practice in each Local Authority has shown that these authorities do exercise their discretion to consult with Travellers before taking action.

172. Contrary to the claims made at paragraph 156 of the ERRC Replies, the Section 10 notice system has proven to be a vitally important mechanism in the Irish Government’s continued efforts to relocate Traveller families away from unsuitable sites to secure accommodation with necessary amenities.

173. Also with regard to paragraph 157 of the ERRC Replies, Ireland once again refutes the allegation that consultation with Traveller families does not take place as evidence from Local Authorities demonstrates that such consultation is general practice.

174. Ireland submits that, contrary to paragraph 160 of the ERRC Replies, consultation with Traveller groups as described in paragraph 142 of the Government’s

Observations informs national practice and policy. Recommendations emerging from these consultations are considered and implemented.

175. Contrary to the ERRC’s statements at paragraphs 157, 158 and 161, Ireland does not accept that the ERRC can rely on the specific allegations made against Local Authorities in the Collective Complaint as “*evidence*” of a breach of the Charter in circumstances where these allegations are vague and depend substantially on hearsay. Moreover, the ERRC’s assertion at paragraph 158 of their Replies does not accurately represent what was submitted in paragraph 140 of the Government’s Observations. Ireland’s position is that the subjects of the specific allegations are not parties to this Complaint and, as such, their confidential information should not be disclosed.
176. In light of the foregoing, Ireland maintains its position that no verifiable breach of the Charter arises from the allegations made by the ERRC.

VI.3 STANDARD OF HOUSING AND PROVISION OF TRAVELLER ACCOMMODATION

177. Ireland has already dealt with the alleged “*problems*” with the needs assessment process referenced at paragraph 162 of the **ERRC Replies** which are, in any event, denied. The Memorandum on the Preparation, Adoption and Implementation of Local Authority Traveller Accommodation Programmes 2014-2018 clearly outlines the detailed consultations involved in this process.²⁵

VI.3.i The Alleged Failure to Provide Sufficient Accommodation

178. The issues mentioned in paragraph 163 of the ERRC Replies have been dealt with elsewhere in this document. Ireland maintains its position that the financial crisis which occurred in the country coupled with the fiscal constraints and austerity measures imposed on the State have resulted in budget cuts across the board. Further, the issue of unmet targets has been addressed and the particular difficulties with regard to the provision of Traveller-specific accommodation have been outlined.

²⁵ Annex 3

Families still on unauthorised sites

179. Ireland recognises that there was an increase of 31 families (from 330 to 361) living on unauthorised sites in 2013 compared to 2012. While any increase in the numbers living on unauthorised sites is unwelcome, the increase involved is marginal, representing less than 0.5%. Further, 55% of those families on unauthorised sites reported in the Annual Count 2013 had basic services such as water and sanitation. In addition, 44% of the total numbers on unauthorised sites had not applied for accommodation which may indicate that some of these families have accommodation in another local authority area or do not plan on staying in the local authority area in which they are currently situated.²⁶
180. In response to paragraph 165 of the ERRC Replies, Ireland once again denies the allegations that its policies towards the Travelling Community are draconian or assimilationist. As previously outlined, whereas such words could potentially have been used to describe the State's policies in the 1960s, Ireland has in the last twenty years adopted an intercultural approach which embraces Traveller culture. The well-documented decline in nomadism which has taken place in this period can therefore not be attributed to the State.
181. With regard to paragraph 165 of the ERRC Replies, paragraph 151 of the Government's Observations is not referred at any other point in the ERRC Replies. Ireland maintains its position with regard to the assertions made at paragraph 151 of the Government's Observations.
182. In response to paragraphs 166 and 167 of the ERRC Replies, the housing options available in any particular Local Authority area reflect the preferences expressed by Travellers in the Housing Needs Assessment process.

²⁶ For example, in late 2011, arising from a discussion among the NTACC in relation to the numbers of families living on unauthorised sites, the Department of the Environment, Community and Local Government agreed to contact the seven local authorities with the highest number of families on unauthorised sites as shown in the 2010 Annual Count. The results of this informal survey indicated that a large number of families on unauthorised sites were there by choice and without local authority involvement. A significant number of the families involved had not applied to their local authority for accommodation.

The alleged decline in the provision of halting site accommodation

183. With regard to the ERRC's comment at paragraph 168 of its Replies, the Government's statement that *inter alia* Laois had not had any demand for Traveller-specific accommodation related to its 2009-2013 Traveller Accommodation Programme. However, the ERRC is correct in saying that the more recent Assessment of Need identified such a demand and that this is reflected in Laois' 2014-2018 Traveller Accommodation Programme.

Increase in Travellers living in private-rented accommodation and standard Local Authority housing

184. With regard to paragraph 169 of the ERRC Replies, Ireland has already outlined that much of the ERRC's purported description of Government policy towards Travellers is of historical relevance only. The Government's policies towards the Travelling community have significantly evolved since the 1963 Report which the ERRC refer to at intervals throughout its Replies. Indeed, the source from which the ERRC draws much of its allegations in paragraph 169 (Helleiner) was published fourteen years ago. Ireland now pursues an intercultural approach towards Travellers and has expended significant portions of the public funds on facilitating Traveller culture. With regard to the only recent allegation in paragraph 169, Cork County Council has denied any such placement of "*dozens of concrete boulders*" or signs. With regard to Group Housing, the Guidelines for Group Housing for Travellers (April 2002) refer to the external design of the unit and specifically envisage "*storing or keeping a caravan or the provision of space that would facilitate Travellers visiting Traveller families who are resident in the group housing within the terms of the planning legislation and fire safety regulations.*" The provision of additional space for visiting Traveller families is a matter for each Local Authority. For example, Clare County Council allows caravans to be parked if they are only used for the purposes of visitors and not for permanent accommodation. Similarly, Kerry County Council, as part of its redevelopment of the Mitchels Crescent site has created space to park caravans to the rear of the Traveller-specific houses.

185. Contrary to paragraph 170 of the ERRC Replies, the decline in demand for Traveller-specific accommodation is well documented as shown by the figures at paragraph 156 of the Government's Observations. The findings of the KW & Associates Research report are being considered by a subgroup composed of representatives of the NTACC and the Private Residential Tenancies Board which is also conducting research into the experiences of Travellers in private rented accommodation.
186. In response to paragraph 171 of the ERRC Replies, the information obtained from Cavan and Laois County Councils cited at paragraph 157 of the Government's Observations clearly related to the preparation of their 2009-2013 Traveller Accommodation Programmes. As the ERRC notes, the 2014-2018 Traveller Accommodation Programmes of these Councils makes provision for the allocation of Traveller-specific accommodation.
187. With regard to paragraph 172 of the ERRC Replies and as was previously outlined above at paragraph 62, Ireland maintains its stance that it is self-evident from the growth in numbers of Travellers living in private rented accommodation that this type of accommodation is increasingly available to members of the Travelling community. Where Travellers express a preference for private rented accommodation, Local Authorities will facilitate this preference. Comprehensive data on the preferences of Travellers seeking accommodation is gathered and maintained.
188. The ERRC, at paragraph 173 of its Replies, recognises that Traveller families do express a preference to live in private rented accommodation and have difficulties doing so. Ireland submits that such difficulties have been significantly reduced by equality legislation but research is being conducted by the National Traveller Accommodation Consultative Committee in conjunction with the Private Residential Tenancies Board to ascertain to what extent these difficulties remain.
189. Ireland has already dealt with the supposed issues with the caravan loan scheme alluded to at paragraph 174 of the ERRC Replies.

Sharing accommodation

190. Ireland maintains its position as outlined in the Government's Observations that much of the intergenerational sharing of accommodation which takes place in Traveller accommodation is by choice as such living arrangements are a feature of Traveller family life and culture. For example, insofar as there has been an increase in sharing, anecdotal responses from local authorities indicate that this increase is due to Travellers sharing with family members, by choice. As stated above at paragraph 55, the NTACC's 2010 Report cited by the ERRC, is often in "*perfectly acceptable conditions*".
191. With regard to paragraph 175 of the ERRC Replies, Galway County Council has clarified the use of the word "*involuntarily*" in their Traveller Accommodation Programme. This refers mainly to young couples wishing to move to accommodation of their own. However, the reduction in social welfare allowances for under 25s (which was implemented due to fiscal constraints) has made this more difficult. Further, the Council observes that there is a scarcity of one and two bedroom properties on the market.
192. Contrary to paragraph 178, the progress in establishing a transient site for the Knock novena is clear evidence of the merits of the consultative approach taken by the Irish authorities. This matter has been raised with the NTACC and has been a subject of discussion in its annual reports over the last number of years.

Difficulties in providing Traveller-specific accommodation

193. With regard to paragraph 179 of the ERRC Replies, Ireland reiterate that difficulties with regard to the States' finances and which are particular to the provision of Traveller-specific accommodation as outlined both in this document and in the Government's Observations are real and ongoing issues which impede the provision of Traveller accommodation.

Summary

194. In light of the difficulties experienced by the State emerging from the growth in the Traveller population and constraints on State finances, any alleged delay can be considered to be both justified and within its margin of appreciation.

VI.3.ii The Alleged Failure to Create a Sufficiently Strong Legislative Framework

195. Ireland rejects the ERRC's unfounded view at paragraph 182 of its Replies that there is a lack of political will to provide accommodation. The difficulties relating to the financial crisis in the State have impeded the achievement of Ireland's goals but these difficulties are unrelated to the robust framework established under the 1998 Traveller Accommodation Act.

VI.3.iii The Alleged Failure to Ensure Adequacy of Existing Sites

196. Ireland has already outlined that it continues to work with Traveller communities to ensure the adequacy of existing sites. All basic amenities are available on Irish Traveller accommodation sites and Ireland reaffirms that efforts are being made to accommodate persons with disabilities. Although it is Ireland's position that, contrary to paragraph 183 of the ERRC Replies, not all sharing of accommodation is involuntary or overcrowded, Ireland fully intends to provide additional accommodation to alleviate any situation where this is not the case in a manner compliant with its obligations under the Charter.

VII CONCLUSIONS

197. Ireland adopts and re-iterates the conclusions set out at paragraphs 188 to 194 of its Observations in Defence. In particular, as therein stated, Ireland is making and will continue to make measurable progress in reasonable time to an extent consistent with the maximum use of available resources.
198. For the reasons set out in its Observations and Defence and herein, Ireland considers the within complaint to be unfounded. It further considers substantial portions of the

Collective Complaint and the matters complained of in the ERRC Replies to be wholly inadmissible.

VIII RESPONSES TO ANNEX 1 OF THE ERRC REPLIES

VIII.1 Specific Allegations of Unlawful Evictions

199. Insofar as further information about specific incidents (in respect of which information was not adequately provided to identify certain alleged incidents, and given that Ireland cannot investigate files concerning personal data without a specific complaint having been made by an individual):
200. **Mahon Rd, County Cork, May 2003** (paragraph 187 of the ERRC Replies): Cork City Council has no further comment on this allegation.
201. **South County Dublin, December 2002** (paragraph 188 of the ERRC Replies): South Dublin County Council maintains that there is no paper or written record of the eviction alleged to have occurred on this date. Nor does any staff member of the Council's who was working in the Traveller Accommodation Unit at the relevant time have any recollection of it. Further, the incident does not conform to how the Council would handle such an eviction as 20 km from Clondalkin would place the family outside of the Council's administrative area. The Gardaí have confirmed that there is no record of this alleged incident on the PULSE system.
202. **County Waterford, January 2009** (paragraph 192 of the ERRC Replies): Waterford City Council states that the judicial review proceedings brought by this family pursuant to their alleged unlawful eviction were settled in favourable manner (with the Council and the Gardaí making contributions to their costs) on the basis that the family acknowledged that they had no entitlement to reside on the relevant halting site. It is unclear why the reference to the tragic deaths of their children is included in the ERRC Replies and the ERRC does not explain the same. In addition, Waterford City Council's LTACC was consulted prior to the most recent Traveller Accommodation Programme.
203. **Various Locations, to May 2005** (paragraph 193 of the ERRC Replies): The family in question applied to Clare County Council for housing in 1991 and 2003. They were not housed because they required a detached house on its own grounds. They were provided with a mobile home which they subsequently exchanged for a touring

caravan. The only reference on file regarding their movement relates to when they parked without authorisation on the construction site of the Newmarket on Fergus bypass road. Mayo County Council state that, despite carrying out searches and enquiries, there is no knowledge of this family or evidence of evictions taken by Mayo County Council against this family. Fingal County Council has no record of the parents being on any of their lists. Wexford County Council state that there is no specific record of enforcement action by the Housing department of Wexford County Council in relation to the partners. Galway City Council state that they can find no record of the family having been evicted by Galway City. Further, there is no record of an application for social housing supports in the name of the partners based on the information submitted. Kilkenny County Council replied that this article is incorrect. There is no record of the partners parking in County Kilkenny prior to late 2006. Their application for Housing was approved in August 2007 at which time the family were parked on the roadside at the Pink Rock in South Kilkenny. The family were never evicted from this location. The family unit broke down in 2009 and the male parent died in August of that year. The female partner was subsequently accommodated by Kilkenny County Council in partnership with Focus Ireland in November 2011. This accommodation is now under threat due to ongoing complaints of anti-social behaviour.

204. **Rathkeale, County Limerick, November 2010** (paragraph 194 of the ERRC Replies): The Council reiterate that the boulders were placed at either end of the lane and not on either side of the family's caravan. The "*other elements*" to which the ERRC refers concerned an unsubstantiated piece of hearsay regarding the cause of the fire that burnt down the house which the Council had allocated to the family concerned. This was not responded to as the ERRC's Complaint stated that the fire was "*believed*" to have been started by "*neighbours*" who were opposed to the family taking up residence. There is no evidence to substantiate this "*belief*" and, in any event, even if such a crime did occur, it would not be an "*eviction*" for which the Local Authority can be held responsible.
205. **Bishopstown, County Cork, May 2011** (paragraph 195 of the ERRC Replies): Given the lack of additional information provided by the ERRC, the Council cannot offer

additional comment on the allegation of a private tenant being evicted by a private landlord.

206. **County Clare, 2012** (paragraph 196 of the ERRC Replies): Clare County Council has no further comment on this matter.
207. **County Wexford. July 2012** (paragraph 197 of the ERRC Replies): The Council refute the assertion made by the ERRC that the matter was only resolved following intervention and representations by the Irish Traveller Movement.

VIII.2 Specific Allegations regarding Halting Site Standards

208. **Spring Lane Halting, Cork City, Co. Cork** (paragraph 198 of the ERRC Replies): Cork City Council gave a commitment in its 2014-2018 Traveller Accommodation Programme to carry out upgrade works on the Spring Lane halting site in order to address the medium to long term difficulties on the site. The Council intends to commence these works in 2014 with an electrical upgrade and cliff face stabilisation works. The walls to which the ERRC refers are in place to act as a fire prevention barrier as well as separating the Bays. With regard to the sewerage system on the site, much of the affected area is prone to flooding which is due to the residents themselves. Horses are kept nearby and the residents keep a pipe into an animal drinking trough running continually which causes debris to flow into the drainage area and block it. The debris is made of horse manure, horse bedding, horse feed and rubbish. The residents also drive their vehicles over the drainage area which affects drainage. The independent reports referred to by the ERRC have not been included in its Annexes and cannot be commented on. The Council employs a pest control company to regularly service the halting site and domestic waste is collected from the site twice a week.
209. **St Margaret's Halting Site, Ballymun, County Dublin** (paragraph 199 of the ERRC Replies): Dublin City Council is in the process of finalising a tender report for the upgrade of the electrical infrastructure on this site. This will ensure that all residents have a consistent electricity supply. In relation to the overcrowding, the ERRC will be aware that the Council's Traveller Accommodation Programme contains a

commitment to examine the Council's existing landholdings in response to a request to provide a second halting site nearby.

210. **Ballymaley Halting Site, Galway Road, County Clare** (paragraph 200 of the ERRC Replies): Ireland's assertion at paragraph 46 of the Government's Observations was that all halting sites are within a reasonable distance from schools and this is not in contradiction with its assertion at paragraph 208 in circumstances where the family have their own vehicles (and the ERRC has not denied the same).
211. **Cloncarlin Halting Site, Monasterevin, County Kildare** (paragraph 201 of the ERRC Replies): The Council maintain that the showers on site are adequate and were upgraded in January 2013. It is also reiterated that the Collective Complaint is misleading as the family in question have always kept one or more dogs while living in both private rented accommodation and on the halting site. Further, it was not suggested in the Government's Observations that the Council are not providing residents with heating. Rather, it was stated that oil heaters on site had been tampered with and that the Council has provided and continues to provide alternative forms of heating such as a solid fuel stove and electric heaters.
212. **Long Pavement, Limerick City, County Limerick** (paragraph 202 of the ERRC Replies): Contrary to the allegations in the ERRC Replies, paragraph 119 of the Collective Complaint was clearly contradicted by paragraph 210 of the Government's Observations. As was previously stated, the narrative in the Collective Complaint relates to the site as it was prior to its redevelopment in 2008 at a cost of €3.8 million. The re-developed site comprises 17 fully serviced bays (with electricity, gas and water), together with three new fully furnished chalets. Associated site works were also completed – including the construction of an access roadway, public lighting and a footpath as well as renovation of the site's drainage system. Although the site is located close to the old city landfill site (now remediated), the site is not "*built on a dump*" and an extensive annual maintenance contract is undertaken to maintain the good condition of the re-development. A programme of rodent-baiting is built into the maintenance and caretaking contract for the site. The works done on the site were in accordance with the relevant Department Guidelines in relation to residential caravan sites for Travellers and fire safety requirements.

213. **Toppins Field, Limerick City, County Limerick** (paragraph 203 of the ERRC Replies): Limerick City Council reiterate that the Toppins Field site was the subject of extensive refurbishment (at a cost of €330,000) in 2011 which comprised full refurbishment of the six service units and bays on site and site redevelopment work. The upgrading of the service units comprised new bathrooms (with *inter alia* hot water showers and toilets), utility rooms and cooking facilities as well as rewiring and plumbing. All Traveller specific projects in Limerick have water, electricity and sanitary services and a refuse service is either provided or subsidised by the Council. The sites are located where the families have traditionally resided.
214. **Bawney's Bridge Halting Site, County Limerick** (paragraph 204 of the ERRC Replies): The Council reiterates that there is no imminent danger or risk from the fertiliser factory and this has been confirmed by the Health Safety Authority. With regard to the residents' request to be re-housed, the Council undertook a consultative process in advance of their new Traveller Accommodation Programme and the projected need for the period of the programme is referred to in Section 2.
215. **Ballinacullia Halting Site, County Roscommon** (paragraph 205 of the ERRC Replies): Roscommon County Council refutes the claim that the Council refused to complete refurbishment works on the site. The Council has, in its 2014-2018 Traveller Accommodation Programme, proposed to re-develop the site for the two families who currently reside there. In the interim, in order to upgrade the facilities on the site, the Council has gone to Tender for the carrying out of remedial works. The closing date for receipt of Tenders was 7th August 2014.
216. **Bunclody Halting Site, County Wexford** (paragraph 207 of the ERRC Replies): The Council refutes the allegation that any action taken was a result of the involvement of the Irish Traveller Movement. As outlined in paragraph 215 of the Government's Observations CCTV cameras were installed on site (with the agreement of the residents) due to high levels of dumping and breach of tenancy. These were not found to be invading the residents' privacy. It is reiterated that the speaker has only been used once during a test. Contrary the ERRC's allegations, lights were installed on site but have been broken by vandalism – these will be repaired. A development plan for the Bunclody community area is in the process of being prepared.

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