

Comments on Ireland's
17th National Report on
the Implementation of the
European Social Charter

June 2020



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

Comments on Ireland's 17th National Report on the Implementation of the European Social Charter

June 2020

16 – 22 Green Street, Dublin 7, D07 CR20

T (01) 858 9601 | F (01) 858 9609 | E info@ihrec.ie | www.ihrec.ie

Contents

Introduction	1
Collective Complaint 83/2012: European Confederation of Police (EuroCOP) v. Ireland	4
Collective Complaint 100/2013: European Roma Rights Centre (ERRC) v. Ireland	5
Provision of Traveller Accommodation	5
<i>Traveller Accommodation Expert Group</i>	7
<i>Seanad Public Consultation Committee</i>	9
<i>Concluding Observations of United Nations Committee on the Elimination of Racial Discrimination</i>	10
<i>Equality Reviews</i>	10
Adequacy of existing sites	11
<i>The Impact of Covid-19</i>	12
Legislative framework governing evictions and evictions in practice	13
Collective Complaint 110/2014: International Federation for Human Rights (FIDH) v. Ireland	16
Human rights and equality considerations in the provision of adequate housing	16
<i>Public Sector Duty</i>	17
Access to adequate local authority housing	18
<i>Conditions within local authority housing</i>	19
<i>Maintenance and repair of local authority housing stock</i>	20
<i>Covid-19</i>	20
Supply of local authority housing	21
<i>Housing supports</i>	22

Family homelessness

24

Collective Complaint 112/2014: European Organisation of Military Associations (EUROMIL)

v. Ireland

27

Introduction

The Irish Human Rights and Equality Commission (“IHREC”) is both the national human rights institution and national equality body for Ireland, established under the *Irish Human Rights and Equality Commission Act 2014*. In its *Strategy Statement 2019-2021*¹, IHREC has committed to prioritising a number of thematic areas including promoting access to justice to those who face the greatest barriers to justice and advancing socio-economic rights, in particular in the area of housing.

On 23 December 2019, the Government of Ireland submitted its 17th National Report to the European Committee of Social Rights (“the Committee”) on the implementation of the European Social Charter (“the Charter”).² IHREC notes that under the simplified reporting procedure, the State was required to provide an update on its response to four collective complaints:

- Collective Complaint 83/2012: *European Confederation of Police (EuroCOP) v. Ireland*;
- Collective Complaint 100/2013: *European Roma Rights Centre (ERRC) v. Ireland*;
- Collective Complaint 110/2014: *International Federation for Human Rights (FIDH) v. Ireland*; and
- Collective Complaint 112/2014: *European Organisation of Military Associations (EUROMIL) v. Ireland*.

IHREC welcomes the opportunity to provide the Committee with an update in relation to the State’s implementation of the decisions of the respective complaints.

With regards to the collective complaints procedure, IHREC notes the Committee’s previous call for the State to consider making a declaration under Article 2 of the Additional Protocol 1995 in order to allow representative national non-governmental organisations the right to submit complaints under the Charter.³ Irish NGOs play a crucial role in the area of economic

¹ Irish Human Rights and Equality Commission, [Strategy Statement 2019-2021](#) (January 2019).

² Government of Ireland, [17th National Report on the implementation of the European Social Charter](#) (23 December 2019).

³ European Committee of Social Rights, [Third Report on Non-Accepted Provisions of the European Social Charter: Ireland](#) (May 2016) p. 3.

and social rights through advocacy and policy work therefore providing direct access to the collective complaints procedures for Irish NGOs could increase its accessibility and the capacity of Irish NGOs to engage in the mechanism, and support the implementation of the Charter at a national level. **IHREC calls upon the State to make a declaration permitting national non-governmental organisations to submit collective complaints under the Charter.**

IHREC notes that the State has not accepted the following provisions of the Charter:

- Article 8(3) on the right of employed mothers who are nursing their children to be entitled to sufficient time off for the purpose;
- Article 21(a-b) on the right of workers to be informed about the economic and financial situation of their employer and to be consulted on decisions which could potentially affect the interests of workers, in particular decisions which could impact their employment;
- Article 27(1)(c) on the responsibility of the State to develop or promote services, public or private, in particular child day-care services and other childcare arrangements;
- Article 31(1-3) on the responsibility of the State to promote access to housing of an adequate standard, to prevent and reduce homelessness with a view to its gradual elimination, and to make the price of housing accessible to those without adequate resources.

IHREC previously called in its comments on the 16th National Report in 2019 for the State to fully review the possibility of accepting all the provisions of the Charter.⁴ IHREC notes that the selective acceptance of the provisions of the Charter was only intended to be a temporary option for states⁵ and that the State was asked to submit written information in 2020 on the non-accepted provisions.⁶ With regard to the non-acceptance of Article 31(1-

⁴ IHREC, [Comments on 16th National Report on the Implementation of the European Social Charter](#) (May 2019) pp. 1-2.

⁵ European Committee of Social Rights, [Third Report on Non-Accepted Provisions of the European Social Charter: Ireland](#) (May 2016) p. 3.

⁶ European Committee of Social Rights, [Third Report on Non-Accepted Provisions of the European Social Charter: Ireland](#) (May 2016) p. 3.

3), IHREC would like to highlight that the access to adequate housing remains a live issue in Ireland, which was outlined in some detail in its previous report to the Committee.⁷

IHREC reiterates its call for the State to accept all the provisions under the Charter.

Additionally, IHREC calls on the State to enshrine socio-economic rights, including the right to housing, in the Constitution of Ireland.⁸

⁷ IHREC, [Comments on 16th National Report on the Implementation of the European Social Charter](#) (May 2019).

⁸ IHREC (2017), [The Provision of Emergency Accommodation to Families Experiencing Homelessness](#). P4. In 2014 the Convention on the Constitution also recommended the constitutional recognition of the right to housing – a proposal which has yet to be acted upon. Convention on the Constitution (2014) Eighth Report of the Convention on the Constitution.

Collective Complaint 83/2012: European Confederation of Police (EuroCOP) v. Ireland

IHREC recalls that in its 2013 decision the Committee found that the current arrangements for industrial relations in An Garda Síochána, including the complete prohibition on the right to strike, were not in compliance with Article 5 (the right to organise) and Articles 6(2) and (4) (the right to bargain collectively).

Taking note of the State's report on the measures adopted to implement this decision, IHREC welcomes the reviews⁹ conducted by the State into the operation of industrial relations within An Garda Síochána, which have led to the State permitting Garda Associations to take part in national public service pay negotiations. IHREC also welcomes the State enshrining in legislation access to the Workplace Relations Commission and the Labour Court for Garda Associations.¹⁰ Notwithstanding these developments IHREC notes that the Committee in its 2018 Findings found the State had not brought the situation into conformity with Articles 5, 6(2), and 6(4) of the Charter due to the State failing to address the abolition of the right to strike.¹¹

IHREC calls on the State to remove the complete prohibition on members of An Garda Síochána's right to strike in order to bring the current legislative framework into conformity with Articles 5 (the right to organise) , and 6(2), and 6(4) (the right to bargain collectively) of the Charter.

⁹ [Review of An Garda Síochána: Report by John Horqan](#) (12 December 2016); [First Report of the Working Group on Industrial Relations Structures for An Garda Síochána](#) (28 July 2017).

¹⁰ [Industrial Relations \(Amendment\) Act 2019](#).

¹¹ Council of Europe, [Follow-up to decisions on the merits of collective complaints: Findings 2018](#) (December 2018) para. 440-443. The Garda Representative bodies have called for the full implementation of the findings in the collective complaint so as to permit Garda members the right to take industrial action, including the right to strike. The Garda Representative Association stated that the normalisation of industrial relations must include a right to take industrial action, including a right to strike, see [First Report of the Working Group on Industrial Relations Structures for An Garda Síochána](#) (28 July 2017) p. 70 and [GRA Statement on the Industrial Relations \(Amendment\) Bill 2018](#) (12 September 2018). The Association of Garda Sergeants and Inspectors called for the full implementation of the findings in *EuroCOP* to provide Garda members with the same industrial relations entitlements as all other workers, see [First Report of the Working Group on Industrial Relations Structures for An Garda Síochána](#) (28 July 2017) pp. 89, 91.

Collective Complaint 100/2013: European Roma Rights Centre (ERRC) v. Ireland

IHREC recalls that in its 2015 decision, the Committee found the State in violation of Article 16 (the right of the family to social, legal and economic protection) due to the failure to provide sufficient accommodation for Travellers, the inadequate conditions of existing Traveller sites, and the inadequate safeguards governing Traveller evictions. IHREC also recalls the Committee's 2018 review of this collective complaint in which the Committee found that the State had not brought the situation into conformity with Article 16. IHREC further notes the Committee's Conclusions for 2019 on the thematic area of children, families, and migrants where the Committee concluded that, in light of its previous negative assessments of this collective complaint during the reference period for these Conclusions, the situation in regard to the protection of Traveller families with respect to housing, including in terms of eviction conditions, is not in conformity with Article 16.

IHREC provided detailed information and commentary on the provision of Traveller-specific accommodation and the conditions of Traveller accommodation to the Committee in 2018, as part of the Committee's follow-up consideration of this collective complaint.¹² IHREC also commented on the provision of accommodation to Traveller families in 2019 as part of the Committee's examination of the State's compliance under Article 16.¹³

Since IHREC's last submission to the Committee there have been a number of relevant developments concerning the provision of Traveller-specific accommodation, the conditions of Traveller accommodation, and the legislative and policy framework governing evictions.

Provision of Traveller Accommodation

While noting in the State's report that the budget for Traveller-specific accommodation has increased from €13 million in 2019 to €14.5 million in 2020, **IHREC is concerned about the low level of funding that has been drawn down by each local authority in recent years for**

¹² IHREC, [Comments on Ireland's 15th National Report on the Implementation of the European Social Charter](#) (May 2018) pp. 4-10.

¹³ IHREC, [Comments on 16th National Report on the Implementation of the European Social Charter](#) (May 2019) pp. 17-18.

the purpose of Traveller accommodation. By November 2019, only 31.5% of the Traveller-specific accommodation budget for 2019 had been drawn down.¹⁴ €694,000 of the 2020 budget had been drawn down by the start of March, which represent less than 5% of the total budget.¹⁵

A review of the Traveller Accommodation Programmes of the local authorities reveal the common reasons given by the local authority for failing to draw down funds and provide accommodation include:

- political and local opposition in the planning process;
- waiting for approval or the funds to be allocated from the State for a project;
- lack of Department of Housing, Planning and Local Government multi-annual budget cycle, currently all funds must be drawn down within one year;
- delays in securing planning permission;
- land availability, issues with finding appropriate sites;
- difficulty of agreeing specifics of projects (design and type of accommodation) with Travellers.

In a number of Traveller Accommodation Programmes, the local authorities state the belief that Travellers prefer standard social housing to Traveller-specific accommodation.

Standard social housing does not fall under the Traveller-specific accommodation budget.

These submissions do not reflect past analysis and the longstanding views of Traveller

groups of the need for the provision of culturally-appropriate accommodation. The annual

estimate of Traveller families conducted in 2018 by local authorities found that 2,468

families¹⁶ are living in Traveller-specific accommodation which represents 22% of all

Traveller families.¹⁷ **IHREC is concerned that the high number of families currently living in rented accommodation does not reflect the preferences of the Traveller community, and**

¹⁴ [Damien English, Minister of State at the Department of Housing, Planning and Local Government, Dáil Éireann Written Answer 660, Volume 989, Number 4, 19 November 2019.](#)

¹⁵ [Damien English, Minister of State at the Department of Housing, Planning and Local Government, Dáil Éireann Written Answer 1223, Volume 992, Number 2, 05 March 2020.](#)

¹⁶ 832 families living in local authority group housing, 1045 families living on local authority halting sites, and 591 families living on unauthorised halting sites.

¹⁷ IHREC's analysis of Department of Planning, Housing and Local Government, [Annual Estimate 2018 of Traveller families in all categories of accommodation](#) and [Annual Estimate 2018 of Traveller families in local authority and local authority assisted housing, and on unauthorised halting sites.](#)

it does not fulfil the State's obligation to provide culturally appropriate accommodation to Travellers.¹⁸ The current accommodation provisions do not respect the culture and identity of Travellers including nomadism, living in extended family groups, keeping horses, and other social and economic activities.¹⁹

IHREC is concerned about the level of overcrowding in Traveller households, nearly 40% of Traveller households have more persons than rooms compared with less than 6% of all households.²⁰ Traveller households have on average 5.3 persons per household in comparison to 4.1 persons per household for the general population.²¹ One in four Traveller households have six or more people living there in comparison to one in twenty households for the general population. Almost one in three Travellers households with children have six or more people living there.²² 10% of Traveller families share a halting site bay or household with another household.²³ IHREC is further concerned by the continued problem of Traveller family homelessness, with Traveller children comprising 12% of the homeless children residing in emergency accommodation despite Travellers only comprising 1% of the population.²⁴ **IHREC is concerned that the State is not meeting the needs of those who would prefer to live in culturally appropriate Traveller-specific accommodation, nor those who would prefer to live in standard housing.**

Traveller Accommodation Expert Group

The most significant development since IHREC's previous submission is the publication of the independent Traveller Accommodation Expert Group's report.²⁵ The Expert Group recognised that there is a lack of a strong evidence base for the current accommodation policies due to shortcomings in the quality of data and information on the size,

¹⁸ IHREC [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019) pp. 98-99.

¹⁹ See Anna Visser, [Traveller Accommodation: The Challenges of Implementation](#), Houses of the Oireachtas (October 2018) pp. 9, 40.

²⁰ Central Statistics Office, [Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion: Socio-economic Aspects and Housing](#).

²¹ Central Statistics Office, [Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion: Demographics](#).

²² Department of Children and Youth Affairs, [Young Travellers in Ireland](#) (April 2020) p. 41.

²³ [Travellers - Life on the fringes](#), RTÉ News (26 September 2019).

²⁴ [Travellers - Life on the fringes](#), RTÉ News (26 September 2019).

²⁵ Traveller Accommodation Expert Group, [Traveller Accommodation Expert Review](#) (July 2019).

characteristics, and accommodation of the Traveller population.²⁶ While local authorities contend that Travellers express a preference for standard social housing, submissions by representatives of the Traveller community to the Expert Group state that Travellers feel pressured to apply for standard social housing.²⁷ Travellers feel that they will not be able to secure Traveller-specific accommodation such as shared housing, transient or permanent halting sites due to the low number of Traveller-specific accommodation available. On this basis the Expert Group concluded that the current system for assessing accommodation needs is not working as it does not reflect the preferences of the Traveller community.²⁸

The Expert Group recommend that Travellers should be able to express their first, second, and third preferences in terms of accommodation when applying for social housing.²⁹ The Expert Group also recommends local authorities introduce an ethnic identifier in assessing the housing needs of applicants for social housing, so that Traveller applicants can be identified and progress in meeting their needs be monitored more effectively.³⁰ The Expert Group further recommends a new in-depth study into the characteristics of the Traveller population, so as to help assess their accommodation needs.³¹

The Expert Group expressed concerns over the adequacy of the budget provided to local authorities to provide Traveller accommodation and the funds drawn down by local authorities over the last number of years. Between 2008 and 2018, of the total allocated budget of €168.8 million for the provision of Traveller accommodation only 66% (€110.6 million) was drawn down by local authorities.³²

Between 2006 and 2018, 54.1% of the capital spent on Traveller-specific accommodation was spent on refurbishing or extending existing Traveller sites rather than on providing new units.³³ The Expert Group identify that the lack of provision of new sites is due to a planning

²⁶ *ibid* pp. 16-17.

²⁷ *ibid* p. 18. See also Galway Traveller Movement, *First Monitoring Report: A survey of accommodation conditions on Traveller halting sites and group housing schemes in Galway City and County* (July 2018) p. 5.

²⁸ *ibid* pp. 16-19.

²⁹ *ibid* p. 24.

³⁰ *ibid* p. 24.

³¹ *ibid* pp. 24-25.

³² *ibid* p. 38. Although if the proportion of funding that is retained by the Department of Housing, Planning and Local Government for a central reserve is excluded from this calculation the rate of fund drawn down rises to 72%.

³³ *ibid* p. 42. 18.4% was spent on group housing scheme units and 14.7% was spent on providing new halting bay sites.

system which blocks the deliverance of Traveller-specific accommodation.³⁴ There is a lack of monitoring of local authorities implementation of Traveller Accommodation Programmes and a lack of sanctions when local authorities do not meet targets.³⁵ The Expert Group recommend that the National Traveller Accommodation Consultative Committee³⁶ be afforded a role in overseeing the implementation of the local authority Traveller Accommodation Programmes, which would allow it to take action when the implementation of the programmes are inadequate.³⁷

Seanad Public Consultation Committee

Seanad Éireann, the upper house of the Irish parliament, invited members of the Traveller community and the wider public to examine and identify key issues faced by the Traveller Community post-recognition of Traveller ethnicity by the State. On the basis of consultations and submissions, the Seanad Public Consultation Committee recognised that over three years after the State formally recognised Traveller ethnicity, there has been ‘little tangible difference’ in transforming the lives of Travellers for the better.³⁸

The Consultation Committee stated that Travellers continue to be affected by legislation and policies which do not respect their distinct culture and history, in particular nomadism.³⁹ The report calls for the overhaul of the *Traveller Accommodation Act 1998* and other legislative frameworks as they have failed to address the accommodation needs of the Traveller community. This is due to the extremely high rate of homelessness amongst Travellers,⁴⁰ the increase in the number of Traveller families sharing accommodation and living in overcrowded conditions, and the inconsistent record of delivery of Traveller-specific accommodation by local authorities and voluntary sector approved housing bodies.

³⁴ *ibid* p. 26.

³⁵ *ibid* p. 65.

³⁶ Renamed as the National Traveller Accommodation Authority, with an expanded remit.

³⁷ *ibid* pp. 63, 70-71.

³⁸ Houses of the Oireachtas, [Seanad Public Consultation Committee report on Travellers towards a more equitable Ireland post-recognition](#) (January 2020) p. 8.

³⁹ *ibid* p. 13.

⁴⁰ 13% of adults and 25% of children in emergency accommodation outside Dublin are Travellers.

Concluding Observations of United Nations Committee on the Elimination of Racial Discrimination

Ireland's record under the Convention on the Elimination of Racial Discrimination was examined in December 2019. IHREC as Ireland's national human rights institution submitted a report to the Committee to inform its assessment and also addressed the Committee hearings.

In IHREC's submission to the United Nations Committee on the Elimination of Racial Discrimination IHREC raised the lack of provision of Traveller-specific accommodation, persistent underspend by local authorities on Traveller-specific accommodation, the conditions of Traveller accommodation, and the experiences of Travellers in the private rental sector.⁴¹ IHREC requested the State to implement the recommendations of the Expert Group.⁴² Furthermore IHREC, following a recommendation of the European Commission against Racism and Intolerance, recommended the State introduce dissuasive sanctions for local authorities who fail to spend the allocated funding on providing Traveller-specific and culturally-appropriate accommodation in areas where there is a stated need.⁴³

The Committee on the Elimination of Racial Discrimination in its Concluding Observations called upon the State to increase access to social housing for Travellers, and increase the budget for the provision of Traveller accommodation to the levels reached before the financial crash and ensure local authorities fully and effectively spend the money.⁴⁴

Equality Reviews

In addressing the failure of local authorities to draw down funds from the ring-fenced capital budget for Traveller-specific accommodation, IHREC requested in June 2019 for every local authority to conduct an equality review under Section 32(1) of the *Irish Human Rights and Equality Commission Act 2014* on its practices and procedures related to the

⁴¹ IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019) p. 98.

⁴² *ibid* p. 159.

⁴³ *ibid* pp. 100, 159. See also Council of Europe European Commission against Racism and Intolerance, [ECRI Report on Ireland \(fifth monitoring cycle\)](#) (June 2019) para. 66-71.

⁴⁴ UN Committee on the Elimination of Racial Discrimination, [Concluding Observations on the combined fifth to ninth reports of Ireland](#) (23 January 2020) para. 27-28.

provision of Traveller-specific accommodation.⁴⁵ The equality reviews also obliged the thirty one city and county councils to examine whether the failure to draw down funds is a result of discriminatory practices or policies under the *Housing (Traveller Accommodation) Act 1998* and the *Equal Status Acts 2000-2015*.

The examination of documentation provided to IHREC under this review is underway, as is continued liaison with local authorities for follow-up and clarification purposes. IHREC is not in a position to comment further on the review until the process is completed.

Adequacy of existing sites

IHREC recalls that the majority of money drawn down by local authorities has been spent on refurbishing and extending existing sites. While IHREC welcomes the State's efforts to renovate sites, IHREC notes in 2019 the Minister of State for Housing and Urban Development stated that the living conditions in Traveller sites were 'disgraceful' and 'not conditions for families to be living in'.⁴⁶

In their survey of existing halting sites and group housing schemes, the Galway Traveller Movement identified significant issues with the conditions of these sites including:

- overcrowding and a lack of privacy;
- damp, cold and mould;
- lack of heating and insulation;
- lack of cooking facilities;
- regular sewerage overflows;
- rat and fly infestations;
- major structural damage;
- insecure electricity;
- lack of fire exits and hoses;
- a lack of maintenance by local authority landlords;

⁴⁵ IHREC, [Human Rights and Equality Commission launches national review into Council Traveller accommodation provision](#) (28 June 2019).

⁴⁶ Kitty Holland, [Minister vows to improve living conditions on Traveller sites](#), *Irish Times* (04 January 2019).

- irregular or no rubbish collections.⁴⁷

The worst living conditions are found on unauthorised sites where Travellers lack basic services such as running water.⁴⁸ After a visit of its delegation to a Traveller site the European Commission against Racism and Intolerance (ECRI) were alarmed by the deplorable and hazardous conditions that Travellers resided in, including only one water source and one toilet for fourteen families and no waste collection service.⁴⁹ ECRI expressed shock at the continued underspend of local authorities on Traveller-specific accommodation 'while Travellers continue to live in squalor and deprivation.'⁵⁰

In their Traveller Accommodation Programmes, a number of local authorities stated that disputes with Travellers were obstructing efforts to refurbish sites. IHREC notes that there may be a breakdown in communication and trust between Travellers and local authorities as Travellers do not feel that their voice is being listened to on the national and local Traveller accommodation consultative committees in relation to the provision of housing.⁵¹

The Impact of Covid-19

The effect of these inadequate conditions on the health of Travellers became more pronounced recently due to the threat of Covid-19. A lack of running water affected Travellers' ability to practice good hygiene habits and overcrowded and cramped conditions made it difficult for people to self-isolate.⁵² The already higher levels of chronic illness amongst Travellers make them more vulnerable to Covid-19.⁵³ IHREC notes the Department of Housing, Planning and Local Government's circular which requested local authorities to provide if needed additional accommodation on or off site, extra toilets, access to running

⁴⁷ Galway Traveller Movement, *First Monitoring Report: A survey of accommodation conditions on Traveller halting sites and group housing schemes in Galway City and County* (July 2018) p. 15. See also Kitty Holland, [Galway Travellers continue to live in mouldy, rat infested facilities, report finds](#), *Irish Times* (28 May 2019); [Travellers in Galway living with sinking kitchens](#), *Irish Examiner* (02 December 2019).

⁴⁸ [Travellers - Life on the fringes](#), *RTÉ News* (26 September 2019).

⁴⁹ Council of Europe European Commission against Racism and Intolerance, [ECRI Report on Ireland \(fifth monitoring cycle\)](#) (June 2019) para. 68.

⁵⁰ *ibid* para. 67.

⁵¹ IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019) p. 21.

⁵² Kitty Holland, [Impact of Covid-19 on Travelling people: 'Worst that ever came'](#), *The Irish Times* (03 April 2020).

⁵³ Pavee Point, [Concerns for vulnerable Travellers being taken on board by Government in plan to fight Covid-19](#) (18 March 2020).

water, and extra refuse collections to limit the spread of virus in Traveller accommodation.⁵⁴ The Irish Traveller Movement stated that the implementation by local authorities of the Department's circular was mixed and that more than 2,000 families were living in inadequate, unsafe and impermanent conditions.⁵⁵ In particular, concern was raised about the lack of provisions for Traveller families living on unauthorised sites with no facilities. According to Pavee Point the years of neglect, **marginalisation and exclusion means that there is a risk that Covid-19 may disproportionately impact on Travellers.**⁵⁶

Legislative framework governing evictions and evictions in practice

IHREC notes from the State's report its commitment to look at the law governing evictions under Section 10 of the *Housing (Miscellaneous Provisions) Act 1992* (as amended) and Section 19 of the *Criminal Justice (Public Order) Act 1994* (as amended) in light of the Expert Group's recommendations.⁵⁷

The Expert Group stated that due to the State's recognition of Traveller ethnicity and the importance of nomadism to Traveller ethnicity, any legislation which criminalised this way of life should be reviewed and repealed.⁵⁸ The Expert Group recommended that the provisions of Section 19 of the *Criminal Justice (Public Order) Act 1994* (as amended) governing trespass should be repealed or should be limited by the creation of an independent oversight mechanism to ensure evictions carried out under the Act are monitored and there are adequate procedural safeguards built in.⁵⁹

The Expert Group expressed concern about the unrestricted and unmonitored use of Section 10 of the *Housing (Miscellaneous Provisions) Act 1992* (as amended) particularly in cases where the local authority has failed to meet targets for the provision of accommodation.⁶⁰ Of particular concern is the lack of restriction on evictions without the

⁵⁴ [Department of Housing, Planning and Local Government circular 18 March 2020](#).

⁵⁵ Kitty Holland, [Impact of Covid-19 on Travelling people: 'Worst that ever came'](#), *The Irish Times* (03 April 2020).

⁵⁶ Pavee Point, [Concerns for vulnerable Travellers being taken on board by Government in plan to fight Covid-19](#) (18 March 2020).

⁵⁷ Government of Ireland, [17th National Report on the implementation of the European Social Charter](#) (23 December 2019) pp. 10-11.

⁵⁸ Traveller Accommodation Expert Group, [Traveller Accommodation Expert Review](#) (July 2019) p. 66.

⁵⁹ *ibid* p. 66.

⁶⁰ *ibid* p. 67.

requirement to provide alternative accommodation to families who have been assessed as in need of accommodation under the Traveller Accommodation Programme of a local authority and are awaiting the provision of accommodation. The Expert Group recommends that when a removal notice is issued to families, there should be an internal appeals procedure available for them to appeal the decision in a formal manner to the housing bodies concerned. Local authorities should be obliged to be cognisant of submissions to an appeals mechanism particularly where the families concerned have been assessed and are awaiting the provision of permanent accommodation or where there is specific needs of the occupants (children, pregnant women, disabled or older people) of the caravans concerned.

There has been a sharp increase in the use of Section 10 of the *Housing (Miscellaneous Provisions) Act 1992* notices by the four⁶¹ Dublin councils.⁶² There has been a near quadrupling of the issuance of notices between 2017 (42) and 2019 (159). The notices are primarily being issued under the third subsection of Section 10, where there is no requirement to provide adequate alternative accommodation. Travellers who are issued with these notices often have no option of alternative accommodation and are left with nowhere else to go.⁶³ Traveller advocacy groups have stated that overcrowded accommodation and a lack of housing is forcing Travellers to move into caravans which is putting them at risk of eviction notices.⁶⁴ Eviction notices can have a significant impact on the mental health of families and children, who are already in a vulnerable position.

In its *Fourth Opinion on Ireland*, the Advisory Committee on the Framework Convention for the Protection of National Minorities repeated its concerns that the law governing trespass criminalises the nomadic way of life of the Travellers.⁶⁵ In its Concluding Observations, the

⁶¹ Dublin City Council, Dún Laoghaire-Rathdown County Council, Fingal County Council, and South Dublin County Council.

⁶² Lois Kapila, [Sharp increase in Dublin councils' use of notices to move on Travellers figures suggest](#), *Dublin Inquirer* (05 February 2020). See [Dún Laoghaire-Rathdown County Council Section 10 Evictions 2017-2019](#), [Dublin City Council Section 10 Evictions 2017-2019](#), [Fingal County Council Section 10 Evictions 2017-2019](#), [South Dublin County Council Section 10 Evictions 2017-2019](#).

⁶³ Conall Ó Fátharta, ['Twenty years of failed accommodation policies has resulted in this crisis': Pavee Point call for eviction ban](#), *Irish Examiner* (11 January 2019).

⁶⁴ Lois Kapila, [Sharp increase in Dublin councils' use of notices to move on Travellers figures suggest](#), *Dublin Inquirer* (05 February 2020).

⁶⁵ Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities, [Fourth Opinion on Ireland](#) (June 2018) para. 42.

Committee on the Elimination of Racial Discrimination called upon the State to repeal the *Housing (Miscellaneous Provisions) Act 2002* governing Traveller evictions.⁶⁶ The Seanad Public Consultation Committee states that the law governing trespass criminalises nomadism and calls for the State to review trespass legislation as well as create a network of transient sites, which would enable Travellers to continue to be nomadic.⁶⁷

In its submission to the Committee on the Elimination of Racial Discrimination IHREC highlighted the lack of legal advice and representative available to Travellers facing eviction.⁶⁸ The legal aid scheme does not extend to eviction proceedings, which can have a disproportionate impact on Travellers. Furthermore, evictions can often take place in the evening, which means that Travellers cannot access legal advice in a timely manner. The Free Legal Advice Centre (FLAC) has stated that the most eviction notices only give Travellers 24 hours to comply which means it is difficult if not impossible to obtain legal representation, receive legal advice, and challenge the notice in court in this timeframe.⁶⁹

In the context of the vulnerability of Travellers, IHREC welcomes the protection from evictions offered to Travellers in the midst of the Covid-19 situation. Under Section 5(7)(c) of the *Emergency Measures in the Public Interest (Covid-19) Act 2020*⁷⁰ Travellers who are currently resident in any location will not be evicted, except where movement is required to ameliorate hardship and provide protection and subject to consultation with the Travellers involved.

IHREC calls on the State to address the failure to provide sufficient accommodation for Travellers, the inadequate conditions of existing Traveller sites, and the inadequate safeguards governing Traveller evictions in order to bring the situation into conformity with Article 16 of the Charter.

⁶⁶ UN Committee on the Elimination of Racial Discrimination, [Concluding Observations on the combined fifth to ninth reports of Ireland](#) (23 January 2020) para. 27-28.

⁶⁷ Houses of the Oireachtas, [Seanad Public Consultation Committee report on Travellers towards a more equitable Ireland post-recognition](#) (January 2020) p. 28.

⁶⁸ IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019) p. 142.

⁶⁹ Lois Kapila, [Sharp increase in Dublin councils' use of notices to move on Travellers figures suggest](#), *Dublin Inquirer* (05 February 2020).

⁷⁰ [Emergency Measures in the Public Interest \(Covid-19\) Act 2020](#).

Collective Complaint 110/2014: International Federation for Human Rights (FIDH) v. Ireland

IHREC recalls the Committee's finding in 2017 that the State violated Article 16 of the Charter on the grounds that the Government failed to take sufficient and timely measures to ensure the right to housing of an adequate standard, with regard to habitability and access to essential services, for not an insignificant number of families living in local authority housing. IHREC also takes note of the Conclusions for 2019, where the Committee concluded that the State was not in conformity under Article 16 as it had not been established that there is a sufficient supply of adequate housing for vulnerable families.

IHREC refers to its 2019 Comments on Ireland's 16th National Report in relation to the provision of family housing under Article 16⁷¹ and equal treatment for migrants in accessing housing under Article 19(4)⁷². In its submission, IHREC highlighted the inadequate access to social housing as well as the State's slow progress in responding to the housing crisis, lack of access to housing and housing support for minority and vulnerable groups, and the rise of family homelessness.

IHREC takes note of the State's report on its response to this collective complaint and welcomes the opportunity to provide further information to the Committee on the provision of housing of an adequate standard to families living in local authority housing.

Human rights and equality considerations in the provision of adequate housing

IHREC recalls that it issued a press release following the publication of the Committee's finding in this collective complaint, calling for significant and urgent action by the State to ensure that basic human rights standards are met in the provision of social housing.⁷³ IHREC takes note of the United Nations Committee on Economic, Social and Cultural Rights

⁷¹ IHREC, [Comments on 16th National Report on the Implementation of the European Social Charter](#) (May 2019) pp. 12-18.

⁷² IHREC, [Comments on 16th National Report on the Implementation of the European Social Charter](#) (May 2019) pp. 43-44.

⁷³ IHREC, [Human Rights and Equality Commission Responds to European Committee on Social Rights Finding Against Ireland on Social Housing](#) (23 October 2017).

guidance on what constitutes ‘adequate housing’, which includes seven aspects: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy.⁷⁴ Human rights and equality considerations must be embedded in the State’s delivery of adequate social housing to families.

Public Sector Duty

The Public Sector Duty, as set out in section 42 of the Irish Human Rights and Equality Commission Act 2014,⁷⁵ requires all public bodies in the performance of their functions to eliminate discrimination, promote equality of opportunity and treatment, and protect the human rights of its members, staff, and the persons to whom it provides services alike. Public bodies are required to assess human rights and equality issues relevant to their functions in their strategy statements and are required to provide an update on their activities in each annual report. In its *Statement of Strategy 2017-2020*, the Department of Housing, Planning and Local Government identified the issue of access to housing and the impact of the housing crisis on particular segments as ‘the most pertinent aspects of its business to which human rights and equality considerations apply’.⁷⁶

IHREC has previously recommended that the Department of Housing, Planning and Local Government in its review of *Rebuilding Ireland* should conduct an assessment of human rights and equality issues in line with its public sector duties under Section 42.⁷⁷ **IHREC reaffirms its position as submitted to the UN Committee on Economic, Social and Cultural Rights in 2015 that accommodation of sufficient quality must be provided by a State to meet its human rights obligations.**⁷⁸

⁷⁴ [General Comment No. 4: The Right to Adequate Housing \(Art. 11 \(1\) of the Covenant\)](#) (13 December 1991) para. 7.

⁷⁵ [Irish Human Rights and Equality Commission Act 2014](#).

⁷⁶ Department of Housing, Planning and Local Government, [Strategy Statement 2017-2020](#) pp. 10-11.

⁷⁷ IHREC, [The provision of emergency accommodation to families experiencing homelessness](#) (July 2017).

⁷⁸ IHREC, [Ireland and the International Covenant on Economic, Social and Cultural Rights: Report to UN Committee on Economic, Social and Cultural Rights on Ireland’s third periodic review](#) (May 2015) pp. 67-68.

Access to adequate local authority housing

Research has shown that a number of the local housing estates have become some of the most deprived urban areas in Ireland.⁷⁹ The Department of Employment Affairs and Social Protection's *Social Inclusion Monitor* for 2017 shows the consistent poverty rate for local authority tenants was 16.6 percent in that year.⁸⁰ The 2018 study on discrimination and inequality in housing published by the ESRI (Economic and Social Research Institute) and IHREC found that 38 percent of those living in local authority housing experience housing deprivation (one or more of: leaking roof, damp walls, floor or foundation, rot in windows frames or floor; dark rooms; no central heating; and no double glazing).⁸¹ The study showed that 28 percent of local authority houses are overcrowded, and local authority tenants are 5.6 times more likely than owner-occupiers to live in overcrowded accommodation.⁸²

In IHREC's Comments on Ireland's 16th National Report in 2019, IHREC expressed concern regarding the available social housing supply not reflecting the characteristics and needs of the families who require social housing such as large families, which leads to overcrowded accommodation.⁸³ The higher levels of deprivation and overcrowding can particularly affect vulnerable groups such as lone parents, Travellers, and people with disabilities who are over-represented in social housing.⁸⁴

While noting in the State's report the commitment under the *Rebuilding Ireland* plan to deliver high quality social housing homes, undertake regeneration projects, promote the preventative maintenance of local authority housing, and provide funding for stock improvement works; IHREC is concerned about the implementation of these commitments in practice. IHREC is concerned that despite the findings in this collective complaint and the evidence of inadequate conditions, the State has not taken timely and effective action to address the inadequate conditions. The regeneration programmes and

⁷⁹ See Rory Hearne and Padraic Kenna, [Using the human rights based approach to tackle housing deprivation in an Irish urban housing estate](#) (2014) 6 *Journal of Human Rights Practice* 1, p. 2; IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (June 2018) p. 49.

⁸⁰ Department of Employment Affairs and Social Protection, *Social Inclusion Monitor 2017* (May 2019) p. 59.

⁸¹ IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (June 2018) pp. 42-43.

⁸² IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (June 2018) p. 52, 54.

⁸³ IHREC, [Comments on 16th National Report on the Implementation of the European Social Charter](#) (May 2019) p. 13.

⁸⁴ IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (June 2018) p. 41.

stock improvements are also not subject to any strict timetable. The report by Community Action Network and Centre for Housing Law, Rights and Policy Research, NUI Galway raised the issue on the lack of statistics on the conditions of local authority housing stock.⁸⁵ In 2017, only 15 local authorities reported that they had ever conducted stock conditions surveys and of these 15 only 5 conducted these surveys at regular intervals.⁸⁶ **While the State report notes that an increasing number of local authorities are conducting stock conditions surveys,⁸⁷ IHREC is concerned that this is not a consistent approach, which means inadequate conditions may be left unidentified and unaddressed.**

Conditions within local authority housing

In relation to the conditions of local authority housing, IHREC refers the Committee to the comments of the Community Action Network and Centre for Housing Law, Rights and Policy Research, NUI Galway on the State's 16th National Report.⁸⁸ Their survey of the conditions of 13 local authority housing areas reveal the persistent problems of mould, damp, lack of heating, sewage issues, rodent infestations, and overcrowded conditions that the residents of these housing estates experience.⁸⁹ Residents of Balgaddy estate in South County Dublin, which was one of the communities mentioned in this collective complaint, continue to experience deep structural problems with their housing including leaks, damp, mould, and electrical problems.⁹⁰ **IHREC is concerned that the poor quality of the houses can have a negative physical and mental effect on families.⁹¹**

⁸⁵ Community Action Network and Centre for Housing Law, Rights and Policy Research, *Comments on Ireland's 16th National Report on the Implementation of the European Social Charter* (April 2019) pp. 8-13.

⁸⁶ Michelle Norris and Aideen Hayden, [The Future of Council Housing: An analysis of the financial sustainability of local authority provided social housing](#) (2018) p. 67.

⁸⁷ Government of Ireland, [17th National Report on the implementation of the European Social Charter](#) (23 December 2019).

⁸⁸ Community Action Network and Centre for Housing Law, Rights and Policy Research, *Comments on Ireland's 16th National Report on the Implementation of the European Social Charter* (April 2019).

⁸⁹ Community Action Network and Centre for Housing Law, Rights and Policy Research, *Comments on Ireland's 16th National Report on the Implementation of the European Social Charter* (April 2019) pp. 13-19.

⁹⁰ Mark Hilliard, [Housing unimproved after damning European ruling survey finds](#), *Irish Times* (28 May 2019); Kieran Dineen, [Dublin council admits legacy issues at Balgaddy estate](#), *RTÉ News* (23 July 2019).

⁹¹ IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (June 2018) p. 39.

Maintenance and repair of local authority housing stock

With regard to maintenance and repair work to address the inadequate conditions, respondents to the survey of social housing by Community Action Network and Centre for Housing Law, Rights and Policy Research largely expressed dissatisfaction with the level of response to maintenance requests and the standard of quality of the repair.⁹² In their report *The Future of Council Housing*, Professor Michelle Norris and Dr Aideen Hayden found that the maintenance staff employed by local authorities devote nearly all their time to response maintenance, responding to tenants' repair requests, which means that the spend on planned maintenance (repairs and upgrading) is inadequate.⁹³ International best practice suggests that 65% of the total housing maintenance budget should be devoted to planned maintenance.⁹⁴ Due to the underinvestment in planned maintenance, local authority officials have stated that housing standards are low in some council housing stock. Norris and Hayden note the concerns raised by an interviewee from the Housing Agency⁹⁵ that the standards of some social housing stock would breach the legislation on minimum standards of rented dwellings.⁹⁶

Covid-19

The UN Special Rapporteur on the right to adequate housing has said that 'housing has become the front line defence' against Covid-19.⁹⁷ **IHREC is concerned that the overcrowded accommodation and lack of adequate sanitation and other essential facilities within a number of social housing units exposes people to a greater risk of contracting Covid-19 due to the difficulties of self-isolating and social distancing in these conditions. IHREC is further concerned that a lack of social housing supply is placing**

⁹² Community Action Network and Centre for Housing Law, Rights and Policy Research, *Comments on Ireland's 16th National Report on the Implementation of the European Social Charter* (April 2019) p. 20.

⁹³ Michelle Norris and Aideen Hayden, [The Future of Council Housing: An analysis of the financial sustainability of local authority provided social housing](#) (2018) pp. 66-67.

⁹⁴ Michelle Norris and Aideen Hayden, [The Future of Council Housing: An analysis of the financial sustainability of local authority provided social housing](#) (2018) p. 67.

⁹⁵ A Government body working with the Department of Housing, Planning and Local Government, local authorities, and approved housing bodies to deliver housing and housing services.

⁹⁶ Michelle Norris and Aideen Hayden, [The Future of Council Housing: An analysis of the financial sustainability of local authority provided social housing](#) (2018) p. 93.

⁹⁷ Office of the High Commissioner for Human Rights, ["Housing, the front line defence against the COVID-19 outbreak," says UN expert](#) (18 March 2020).

people that are homeless, in emergency accommodation, and living in overcrowded accommodation at a higher risk of exposure to Covid-19.

Supply of local authority housing

IHREC has previously highlighted its concerns with the slow progress of the State in dealing with the housing and homelessness crisis, and the human rights and equality considerations in relation to the ongoing crisis. IHREC has expressed concern about the disproportionate and negative impact of this crisis on vulnerable groups in society including children,⁹⁸ Travellers,⁹⁹ Roma,¹⁰⁰ refugees,¹⁰¹ victims of domestic violence,¹⁰² and people with disabilities.¹⁰³ **IHREC has repeatedly called for greater access to and availability of social housing for families including low income families and families with special housing needs (Travellers, people with disabilities).**¹⁰⁴

In 2019 IHREC appeared as *amicus curiae* in the Supreme Court in *Fagan v. Dublin City Council*, a case concerning the assessment of a separated father for social housing by the

⁹⁸ IHREC, [Ireland and the United Nations Convention on the Rights of the Child: Report to the UN Committee on the Rights of the Child on Ireland's combined third and fourth periodic reports](#) (December 2015) pp. 26-27.

⁹⁹ IHREC, [Ireland and the United Nations Convention on the Rights of the Child: Report to the UN Committee on the Rights of the Child on Ireland's combined third and fourth periodic reports](#) (December 2015) pp. 26-27; IHREC, [Ireland and the International Covenant on Economic, Social and Cultural Rights: Report to UN Committee on Economic, Social and Cultural Rights on Ireland's third periodic review](#) (May 2015) pp. 69-71.

¹⁰⁰ IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019) pp. 100-101.

¹⁰¹ IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019) pp. 113-114; IHREC, [Comments on Ireland's 14th National Report on the implementation of the European Social Charter](#) (April 2017) pp. 17-18.

¹⁰² IHREC, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women: Submission to the United Nations Committee on the Elimination of Discrimination Against Women on Ireland's combined sixth and seventh periodic reports](#) (January 2017) pp. 63-64.

¹⁰³ IHREC, [Comments on Ireland's 14th National Report on the implementation of the European Social Charter](#) (April 2017) pp. 22-23; IHREC, [Ireland and the International Covenant on Economic, Social and Cultural Rights: Report to UN Committee on Economic, Social and Cultural Rights on Ireland's third periodic review](#) (May 2015) pp. 71-73.

¹⁰⁴ IHREC, [Comments on Ireland's 14th National Report on the implementation of the European Social Charter](#) (April 2017) pp. 22-23; IHREC, [Ireland and the United Nations Convention on the Rights of the Child: Report to the UN Committee on the Rights of the Child on Ireland's combined third and fourth periodic reports](#) (December 2015) pp. 26-27; IHREC, [Ireland and the International Covenant on Economic, Social and Cultural Rights: Report to UN Committee on Economic, Social and Cultural Rights on Ireland's third periodic review](#) (May 2015) pp. 67-72.

Council.¹⁰⁵ Dublin City Council assessed his housing needs as a one person household stating he did not have a reasonable requirement to live together with his children notwithstanding his three-night per week custody and co-parenting rights to his children. IHREC submitted that the approach taken by the Council to refuse to recognise Mr Fagan and his children together as a household for social housing eligibility did not vindicate their constitutional and ECHR rights. The Supreme Court ruled that the process by which Dublin City Council assessed parents as one-person households on the basis that the children had already been provided for constituted a de facto policy on the part of the Council. The Supreme Court ruled that the assessment of whether a family had a reasonable requirement to live together should be made on a case by case basis according to the personal circumstances of the applicant for social housing.

Social housing is critical in providing housing to low income families, particularly in urban areas where housing supply is limited, rents are higher, and rent supplements are difficult to operate.¹⁰⁶ IHREC takes notes of the Concluding Observations of the Committee on the Rights of the Child and the Committee on the Elimination of Racial Discrimination in which they recommended that the State improve the access to social housing for families facing homelessness, Travellers, Roma, people of African descent and migrants.¹⁰⁷ IHREC also takes note of the recommendation of the Committee on Economic, Social and Cultural Rights for the State to increase the number of social housing units to satisfy the high demand and reduce the long waiting list.¹⁰⁸ **IHREC is concerned that there is a significant gap though between the demand for social housing and the available local authority housing stock, fewer than 10% of the population live in social housing.**¹⁰⁹

Housing supports

IHREC is particularly concerned with the shift in the State's policy focus from the provision of secure and high quality social housing to the provision of supported temporary

¹⁰⁵ IHREC, [Supreme Court establishes the importance of parental and family rights in Dublin City Council's assessment of children's housing](#) (19 December 2019).

¹⁰⁶ Michelle Norris and Aideen Hayden, [The Future of Council Housing: An analysis of the financial sustainability of local authority provided social housing](#) (2018) p. 5.

¹⁰⁷ [Concluding Observations of the Committee on the Rights of the Child](#) (1 March 2016) para. 62; [Concluding Observations of the Committee on the Elimination of Racial Discrimination](#) (23 January 2020) para. 28(b).

¹⁰⁸ [Concluding Observations of the Committee on Economic, Social and Cultural Rights](#) (8 July 2015) para. 27(b).

¹⁰⁹ IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (June 2018) p. 41.

accommodation such as family hubs and greater reliance on housing supports. A consequence of the low supply of local authority housing is the increased reliance on the private rental market. The State's housing policy is heavily dependent on the use of the private housing market to meet social housing needs, this is apparent in the importance of HAP (Housing Assistance Payment)¹¹⁰ to the State's social housing strategy.¹¹¹ Rent supplement has become a default long-term housing support in the absence of adequate social housing to accommodate the significant number of households in need of assistance.

The decision to withdraw from building social housing and to instead provide rent supplement for private renters has made low-income households extremely vulnerable to shocks in the housing market.¹¹² IHREC is increasingly supporting individuals who are experiencing discrimination accessing housing due to their receipt of housing assistance.¹¹³ Those in receipt of rent supplement are also more likely to face housing deprivation and overcrowding.¹¹⁴ EEA and non-EEA nationals can also face discriminatory barriers in accessing social housing supports.¹¹⁵ **IHREC is concerned that the current housing policy potentially exposes minority and vulnerable groups (black people, non-EU nationals, lone parents, people with disabilities, and Travellers) to greater levels of discrimination in accessing housing, inequalities in housing quality outcomes (deprivation and overcrowding), and to a higher risk of homelessness.**¹¹⁶

¹¹⁰ HAP is a form of social housing support whereby the local authority pays rent to a private landlord on behalf of those households assessed as having a social housing need.

¹¹¹ See IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019) p. 95; Rory Hearne and Mary Murphy, [An absence of rights: homeless families and social housing marketisation in Ireland](#) (2018) 66 Administration 9, pp. 9-31; Michael Byrne and Michelle Norris, *Procyclical social housing and the crisis of Irish housing policy: marketization, social housing, and the property boom and bust* (2018) 28 Housing Policy Debate 50, pp. 50-63.

¹¹² Michael Byrne and Michelle Norris, *Procyclical social housing and the crisis of Irish housing policy: marketization, social housing, and the property boom and bust* (2018) 28 Housing Policy Debate 50, pp. 50-63.

¹¹³ In 2018, 22% of the 1,711 public queries to the IHREC's Your Rights Team concerned discrimination on the housing assistance grounds under the *Equal Status Acts 2000-2015*.

¹¹⁴ IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (June 2018) p. 57.

¹¹⁵ IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019) p. 94.

¹¹⁶ IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (June 2018).

Family homelessness

IHREC has repeatedly expressed concern about the rise in family homelessness over the last number of years.¹¹⁷ IHREC has highlighted in particular the disproportionate number of migrant families at risk or experiencing homelessness¹¹⁸ and the gendered nature of the homeless crisis with the majority of families presenting to homeless services being female-headed single parent families.¹¹⁹ A report by the Irish NGO, Focus Ireland, found that young families are particularly vulnerable to homelessness due to difficulties of accessing housing, including social housing, and housing supports.¹²⁰ In its 2017 comments on Ireland's 14th National Report on the implementation of the Charter, IHREC provided the Committee with information on homeless services and the absence of sufficient support for families experiencing homelessness.¹²¹ Families who faced the prospect of homelessness are not receiving appropriate or timely advice on accessing relevant services, families are falling between the cracks.

The instability of HAP and lack of available social housing have meant families have relied on emergency accommodation to meet their housing needs.¹²² IHREC has expressed concern about the conditions of emergency accommodation and family hubs, and their potential negative impact on families' physical and mental health due to the length of time families have to reside in these types of accommodation.¹²³ Families in emergency accommodation can experience excessive noise, a lack of access to services such as cooking and laundry

¹¹⁷ IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019) p. 96; IHREC, [The provision of emergency accommodation to families experiencing homelessness](#) (July 2017); IHREC, [Ireland and the International Covenant on Economic, Social and Cultural Rights: Report to UN Committee on Economic, Social and Cultural Rights on Ireland's third periodic review](#) (May 2015) p. 67.

¹¹⁸ IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019) p. 96.

¹¹⁹ IHREC, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women: Submission to the United Nations Committee on the Elimination of Discrimination Against Women on Ireland's combined sixth and seventh periodic reports](#) (January 2017) pp. 96-97. See also IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019) pp. 96-97.

¹²⁰ Focus Ireland, [Young Families in the Housing Crisis: Challenges and Solutions](#) (December 2018).

¹²¹ IHREC, [Comments on Ireland's 14th National Report on the implementation of the European Social Charter](#) (April 2017) pp. 18-19.

¹²² Focus Ireland, [Young Families in the Housing Crisis: Challenges and Solutions](#) (December 2018) p. 30.

¹²³ IHREC, [The provision of emergency accommodation to families experiencing homelessness](#) (July 2017) p. 5-9.

facilities, and lack security of tenure.¹²⁴ A 2019 report by the Ombudsman for Children's Office highlighted the challenges of stigma, lack of privacy, excessive noise, and lack of normal family life faced by children living in family hubs.¹²⁵ **IHREC has highlighted that family hubs are not suitable to adequately meet the long term housing needs of families as the use of family hubs could normalise homelessness and lead to families being institutionalised.**¹²⁶ **IHREC is of the view that emergency accommodation should only be used for the shortest period possible.**¹²⁷

In its *Report Card 2020* the Children's Rights Alliance gave the State an 'F grade' for the Government's response to child and family homelessness.¹²⁸ This grade was due to the significant increase in family homelessness, the State's heavy reliance on family hubs, the continued use of emergency accommodation, and a poor output of social and affordable housing. The national strategy on housing and homelessness, *Rebuilding Ireland*, recognises that 'families with children presenting as homeless require a response that is separate and distinct from presentations by adult individuals and couples'.¹²⁹ Professor Michelle Norris and Dr Aideen Hayden state that 'homelessness cannot be resolved successfully without higher rates of council housing output.'¹³⁰

IHREC is of the view that family homelessness gives rise to particular human rights and equality considerations that must be taken into account when developing an appropriate response. Such a response must focus on the long-term housing needs of families experiencing homelessness in order to ensure that homelessness and living in emergency accommodation does not become normalised. IHREC has emphasised that while emergency accommodation and family hubs may be a necessary first response for families experiencing homelessness, the delivery of long-term permanent housing solutions for

¹²⁴ IHREC, [The provision of emergency accommodation to families experiencing homelessness](#) (July 2017) p. 8.

¹²⁵ Ombudsman for Children's Office, [No place like home: Children's views and experiences of living in Family Hubs](#) (April 2019).

¹²⁶ IHREC, [The provision of emergency accommodation to families experiencing homelessness](#) (July 2017) p. 9.

¹²⁷ IHREC, [Comments on 16th National Report on the Implementation of the European Social Charter](#) (May 2019) p. 16.

¹²⁸ Children's Rights Alliance, [Report Card 2020](#) (March 2020) pp. 36-43.

¹²⁹ Government of Ireland, [Rebuilding Ireland: Action Plan for Housing and Homelessness](#) (2016) p. 34.

¹³⁰ Michelle Norris and Aideen Hayden, [The Future of Council Housing: An analysis of the financial sustainability of local authority provided social housing](#) (2018) p. 5.

families must remain central to the development of policy responses.¹³¹ IHREC believes that the provision of social housing is central to the solution to the homelessness crisis.¹³²

IHREC calls on the State to take sufficient and timely measures to ensure the right to housing of an adequate standard, with regard to habitability and access to essential services, for families living in local authority housing; and to provide a sufficient supply of adequate housing for vulnerable families in order to bring the situation into conformity with Article 16 of the Charter.

¹³¹ IHREC, [The provision of emergency accommodation to families experiencing homelessness](#) (July 2017) pp. 7, 10.

¹³² IHREC, [Submission to the Department of the Taoiseach on the European Semester 2020 and the National Reform Programme](#) (March 2020) p. 4.

Collective Complaint 112/2014: European Organisation of Military Associations (EUROMIL) v. Ireland

IHREC recalls that in its 2017 decision, the Committee found a violation of Article 5 on the grounds that the complete prohibition against military representative associations from joining national employees' organisations was not necessary or proportionate. The Committee also found a violation of Article 6(2) as military representative associations are unable to meaningfully participate in national pay agreement discussions.

With regard to the State's report on its response to this decision, IHREC notes the inclusion of the Permanent Defence Forces Associations in public service pay negotiations alongside public sector trade unions, non-Irish Congress of Trade Unions (ICTU) affiliated unions and representative bodies. IHREC also notes the review conducted by the State into the operation and administration of the pay and dispute resolution mechanisms within the Defence Forces and the recommendation that Defence officials should engage in discussions with the Irish Congress of Trade Unions (ICTU) to explore the practicalities of a Permanent Defence Forces Associations forming an association or affiliation with the ICTU.¹³³

While acknowledging these developments, IHREC notes that the Permanent Defence Force Other Ranks Representative Association (PDFORRA), following its long-standing position of supporting an affiliation with ICTU, formally requested an associate membership with ICTU in July 2019.¹³⁴ IHREC further notes that ICTU has agreed in principle to accept PDFORRA as an associate member.¹³⁵ PDFORRA has sought an association with ICTU so as to provide the best opportunity to secure advances in pay remuneration for its members as they will be collectively represented rather than excluded in national pay talks.¹³⁶

IHREC calls on the State to remove the complete prohibition against military representative associations from joining national employees' organisations in order to

¹³³ [Report on the Review of the Conciliation and Arbitration Scheme for Members of the Permanent Defence Force](#) (September 2018) p. 66.

¹³⁴ Ingrid Miley, [Body representing soldiers applies for ICTU affiliation](#), *RTÉ News* (2 September 2019);

¹³⁵ Martin Wall, [ICTU backs bid by Defence Forces personnel to join union group](#), *Irish Times* (18 September 2019).

¹³⁶ [PDFORRA step closer to ICTU affiliation](#), *Irish Examiner* (19 September 2019); PDFORRA, [Information Circular No 03/2020: Review of Conciliation and Arbitration Scheme](#) (24 January 2020).

bring the current legislative framework into conformity with Article 5 (the right to organise) of the Charter.



**16 – 22 Sráid na Faiche,
Baile Átha Cliath, D07 CR20**
16 – 22 Green Street,
Dublin, D07 CR20

Idirlíon/Web www.ihrec.ie

🐦 [@_ihrec](https://twitter.com/_ihrec)