



**Committee on the Elimination of All Forms of Racial Discrimination (CERD)
100th session (25 November – 13 December 2019)**

Suggested List of Themes & Questions for Ireland

August 2019

Reporting Organisation

Pavee Point Traveller and Roma Centre is a national NGO committed to the realisation of human rights for Irish Travellers and Roma in Ireland. The aim of Pavee Point is to contribute to the improvement in quality of life and living circumstances for Travellers and Roma by working for social justice, solidarity and human rights. Pavee Point was established in 1985.

Our submission respectfully suggests potential themes and further information that the CERD Committee may seek from the Irish State. It is divided into three overarching themes: National Policy Context; Access to Public Services; and Prohibition of Racial Incitement in Ireland & Ethnic Profiling in Policing Services. Each of the themes outline priority areas of concern for Travellers and Roma which have either been omitted or not adequately addressed in the State's report to the CERD Committee.

Travellers and Roma in Ireland

Indigenous to the island of Ireland, there are a little over 36,000 Travellers in Ireland. This represents less than 1% of the nation's population.ⁱ An estimated 5,000 Roma live in Ireland, many of whom live in poverty due to lack of access to work and restrictive social welfare measures.ⁱⁱ As minority ethnic groups, Travellers and Roma experience persistent racism and discrimination on the basis of ethnicity, gender and other grounds. As a result, Travellers and Roma are among the most marginalised and excluded individuals and groups in Ireland.

Pavee Point has welcomed the State's symbolic recognition of Irish Travellers as an ethnic group in 2017 along with increased consultation with Traveller and Roma representative organisations. However, much remains to be achieved for Travellers and Roma in concrete terms since the Committee's previous examination of the State Party. Calling on the State's obligations to ensure non-discrimination and protection of vulnerable groups, measures to progress the rights of Travellers and Roma remain urgent.

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1. NATIONAL POLICY CONTEXT

1.1 UN Sustainable Development Goals (SDGs)

The SDGs acknowledge that the current sustainability crisis has a differential impact on groups that experience racial discrimination, and provide key indicators for addressing racism, inequality and poverty.ⁱⁱⁱ

Pavee Point respectfully suggests that the CERD Committee ask the State:

- **How will Ireland's commitment to the SDGs and addressing climate change be reflected in actions in Ireland through SDGs, particularly in relation to goals 1 (poverty), 3 (good health and wellbeing), 4 (quality education), 5 (gender equality), 8 (decent work) and 10 (Reduced Inequalities)?**

1.2 National Action Plan against Racism and Migrant Integration Strategy (MIS) 2017-2020

The National Action Plan against Racism (2005-2008) was never renewed,^{iv} and the institutional framework for addressing racism has remained inadequate since the abolition of the National Consultative Committee on Racism and Interculturalism in 2008.^v In the context of the State's Migrant Integration Strategy (MIS), it was announced in 2019 that a new anti-racism committee would be established later this year to review and make recommendations on strengthening the State's approach to combating racism.^{vi} However, Irish Travellers - an indigenous ethnic group- are not included in the scope of the MIS or the functions of the Office for the Promotion of Migrant Integration that drives anti-racism initiatives.^{vii} This suggests that Travellers may be excluded from the scope of the new anti-racism committee.

Pavee Point respectfully suggests that the CERD Committee ask the State:

- **Given the exclusion of Travellers from the Migrant Integration Strategy, can the State include Travellers in the functions and scope of the new anti-racism committee and develop a new national action plan against racism that is inclusive of Travellers?**

1.3 National Action Plan on Poverty and Social Inclusion

The State is currently drafting a new Action Plan on Poverty and Social Inclusion. However, there has been little, if any, consultation with groups most affected by poverty, racism and discrimination.

Pavee Point respectfully suggests that the CERD Committee ask the State:

- **How will the intersectionality between poverty and racism be addressed in the forthcoming National Action Plan on Poverty and Social Inclusion?**

1.4 National Traveller and Roma Inclusion Strategy 2017-2021 (NTRIS)

The State reports 'good progress' with the implementation of Ireland's current NTRIS.^{viii} However, the current NTRIS contains **no** targets, indicators, outcomes, timeframes or associated budget lines. A number of international human rights bodies have called the State to place more effort on concrete implementation of the NTRIS and adopt a clear implementation plan.^{ix}

Pavee Point respectfully suggests that the CERD Committee ask the State:

- **Can the State indicate its intentions to develop a robust implementation and monitoring plan for the NTRIS with clear targets, indicators, outcomes, timeframes and budget lines?**

1.5 Second National Strategy on Domestic, Sexual and Gender-based Violence (NSDSGBV) 2016-2021 and National Strategy for Women and Girls 2017-2020 (NSWG)

For the first time, the NSDSGBV and NSWG contain actions related to Traveller and Roma women. However, the Strategies do not have robust implementation plans. Actions related to Traveller and Roma women in the NSWG rely on implementation of actions in the National Traveller Roma Inclusion Strategy (NTRIS), which has no clear implementation plan (see section 1.4). As a result, the actions related to Traveller and Roma women in the NSWG have not been progressed.^x

Pavee Point respectfully suggests that the CERD Committee ask the State:

- **What steps are being adopted by the State to implement the actions related to Traveller and Roma women in the NTRIS, NSWG and NSDSGBV in a coordinated and consistent way, and with clear targets, indicators, timeframes and budget lines?**

1.6 Lack of Disaggregated Data to Inform Policy, Programming and Legislation

To fill a gap in the availability of disaggregated data by ethnicity,^{xi} the State has indicated a commitment to develop a system of ethnic data collection across all State departments and agencies. While progress has been made with Central Statistics Office,^{xii} there have been major issues and resistance to progress ethnic data collection through the various data committees/sub-groups set up by the Department of Justice and Equality.^{xiii} Where steps have been taken to disaggregate data by ethnicity by some state agencies, it hasn't taken place in line with human rights standards.^{xiv}

Pavee Point respectfully suggests that the CERD Committee ask the State:

- **What measures will the State take to ensure the full and effective development and implementation of an ethnic identifier across relevant data collection systems by State departments and agencies that takes place in line with human rights standards?**

2. ACCESS TO PUBLIC SERVICES

2.1 Housing and Accommodation

2.1.1 Roma

Roma face discrimination in accessing accommodation; severe overcrowding; poor and dangerous accommodation conditions; homelessness; and lack of access to social housing and rent supplement.^{xv} There are currently no actions in the NTRIS to address the housing crisis among Roma.

Pavee Point respectfully suggests that the CERD Committee ask the State:

- **Can the State address the housing needs of Roma with the addition of clear actions and associated implementation plan in the current NTRIS?**

2.1.2 Irish Travellers

The State notes a reduction in the number of Traveller families living in 'unauthorised sites' and claims this "as evidence of the results of investment in Traveller accommodation" and of "high level of Traveller specific accommodation delivery".^{xvi} In reality, Traveller accommodation and homelessness are at a crisis point and Traveller families are being subjected to forced evictions from 'unauthorised sites' with the use of Housing (Miscellaneous Provisions) Act 2002 by Local Authorities.

Traveller accommodation budget, which fell from €40m in 2008 to €4m in 2013, stands at a mere €13m in 2019. The Housing (Traveller Accommodation) Act 1998 places responsibility for the provision of Traveller accommodation on Local Authorities. Substantial parts of the allocated Traveller

accommodation budgets remain unspent by Local Authorities with no incentives or sanctions in place to ensure that Local Authorities meet their legal obligations in their provision of adequate, safe and culturally appropriate accommodation for Travellers.^{xvii}

Pavee Point respectfully suggests that the CERD Committee ask the State:

- In line with numerous calls by international human rights bodies and an Independent Expert Group on Traveller accommodation,^{xviii} can the State outline its intentions and potential timeframe to overhaul the Housing (Traveller Accommodation) Act 1998 and other relevant legislation and policies which impact on accommodation provision for Travellers, including the Housing (Miscellaneous Provisions) Act 2002 which gives the State additional powers to evict Traveller families?

2.2 Education

In 2017, a commitment was made to complete the review of the 2006 Report and Recommendations for a Traveller Education Strategy.^{xix} However, the review is yet to be published. The Traveller Education Advisory Consultative Forum (2009-2015) has been dismantled in favour of a NTRIS working group established to advance limited NTRIS actions on Traveller education.^{xx}

Pavee Point respectfully suggests that the CERD Committee ask the State:

- Can the State provide a timeframe for:
 - a) The completion and publication of the review of the 2006 Report and Recommendations for a Traveller Education Strategy?
 - b) The actual development of a Traveller and Roma Education Strategy with strategic participation of Traveller and Roma representative groups?^{xxi}

2.3 Child Poverty and Access to Social Protection

Despite Child Benefit being a 'universal' payment in Ireland, many Roma children are not entitled to this payment due to the implementation of the right to reside (European Directive 2004/38) and habitual residence condition (a policy by the Department of Social Protection).^{xxii} Concerns about Roma child poverty and the discriminatory effect of the habitual residence condition on Roma to access basic social welfare payments have been raised by a number of international human rights bodies.^{xxiii}

Pavee Point respectfully suggests that the CERD Committee ask the State:

- Can the State outline measures taken to ensure that all children residing in the State, including Roma children, can access child benefit payments?

3. Prohibition of Racial Incitement in Ireland & Ethnic Profiling in Policing Services

There is currently no legislation dealing with hate crime, and the legislation dealing with hate speech is ineffective.^{xxiv} Evidence points to serious concerns around ethnic profiling in the delivery of policing services with Traveller and Roma communities. 77.5% of Roma report being stopped by the police for an identity document, and of those, 56% report being stopped four times or more.^{xxv} In 2013, two Roma children were removed from their families by the police under Section 12 of the Child Care Act 1991^{xxvi} – a subsequent inquiry found that the removal of one of the children amounted to ethnic profiling.^{xxvii}

Pavee Point respectfully suggests that the CERD Committee ask the State:

- Can the State provide details of legislative, disciplinary or other procedures to be put in place to prohibit, prevent and monitor ethnic profiling within the police force, and to prevent hate crime and hate speech in the State?

Endnotes

ⁱ Kelleher et al., *All Ireland Traveller Health Study*, University College Dublin & Department of Health & Children, 2010.

ⁱⁱ There is no Government data in relation to the population of Roma in Ireland. This estimate is based on the findings of Ireland's first National Roma Needs Assessment. Curran, S., A. Crickley, A., R. Fay, F. Mc Gaughey (eds), *Roma in Ireland - a National Needs Assessment*, Department of Justice and Equality and Pavee Point Traveller and Roma Centre, 2018.

ⁱⁱⁱ United Nations Sustainable Development Goals, '*Contributions to the 2030 Agenda for Sustainable Development*', https://sustainabledevelopment.un.org/content/documents/14579OHCHR_Comm_on_the_Elimination_of_Racial_Discrimination.pdf.

^{iv} Several international human rights monitoring bodies have called for the State to renew the National Action Plan on Racism- UNCRC, *Concluding Observations on the Combined Third and Fourth Periodic Reports of Ireland*, CRC/C/IRL/CO/3-4 4, 1 March 2016; HRC, *Concluding Observations on the Fourth Periodic Report of Ireland*, CCPR/C/IRL/4, 19 August 2014; FCPNM, *Fourth Opinion on Ireland*, ACFC/OP/IV(2018)005, 20 June 2019. In 2019, the European Commission against Racism and Intolerance (ECRI) urged the State to develop a new and updated strategy against racism "with a strong focus on reducing prejudice against the most vulnerable and targeted communities, including Travellers and Roma" in ECRI, *Fifth Report on Ireland*, CRI(2019)18, 4 June 2019.

^v The National Consultative Committee on Racism and Interculturalism (NCCRI) was abolished in 2008. Some of the functions of this Committee were subsequently absorbed into the functions of the Office for the Promotion of Migrant Integration (OPMI) and within the scope of the Migrant Integration Strategy.

^{vi} Department of Justice and Equality, '*Minister Stanton announces new Anti-Racism Committee*', 28 June 2019. <http://www.justice.ie/en/JELR/Pages/PR19000174>.

^{vii} The Office for the Promotion of Migrant Integration (OPMI) does not coordinate with the National Traveller and Roma Contact Point. While there are actions in the National Traveller Roma Inclusion Strategy (NTRIS) that focus on racism against Roma and Travellers, no action has been taken to tackle the unique forms of anti-Gypsyism and anti-Traveller racism experienced by Roma and Travellers.

^{viii} Department of Justice and Equality, *CERD Combined 5th, 6th and 7th Periodic Report – IRELAND*, 2018, CERD/C/IRL/5-9, para. 36. Pavee Point has welcomed the adoption of Ireland's second NTRIS which contains 149 actions across 10 thematic areas. Ireland's first NTRIS (2011) contained no goals, actions, targets, indicators, timeframes, or funding, monitoring and evaluation mechanisms. It was developed without active consultation and participation of Travellers and Roma. Department of Justice and Equality, *NTRIS 2017-2021*, <http://www.justice.ie/en/JELR/National%20Traveller%20and%20Roma%20Inclusion%20Strategy,%202017-2021.pdf/Files/National%20Traveller%20and%20Roma%20Inclusion%20Strategy,%202017-2021.pdf>

^{ix} UNCEDAW, *Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Ireland*, CEDAW/C/IRL/CO/6-7, 9 March 2017; UNCRC, 2016; ECRI, 2019; FCPNM, 2019.

^x In 2019, the Advisory Committee on the FCPNM called on the State to implement both the NTRIS and the NSWG in a coordinated and consistent way and to adopt an implementation plan with clear targets, indicators, timeframes and resources for the Strategies in FCPNM, 2019.

^{xi} Concerns at the lack of disaggregated data by ethnicity in formulating and monitoring policy and programming in Ireland have been raised by numerous international human rights monitoring bodies- UNCESCR, *Concluding Observations on the Third Periodic Report of Ireland*, E/C.12/IRL/CO/3, 19 June 2015; ECRI, *Second Report on Ireland*, CRI (2002) 3, 23 April 2002; UNCEDAW, 2017; UNCRC, 2016; HRC, 2014; FCPNM, 2019; ECRI, 2019.

^{xii} The Central Statistics Office has included Travellers as an administrative category in the Census since 2006. Roma will be included in the Census for the first time in Census 2021. Progress has also been made with ethnic data collection with National Social Inclusion Programmes.

^{xiii} The Department of Justice and Equality has actioned to convene three separate data working groups as part of the National Traveller Roma Inclusion Strategy (NTRIS), Migrant Integration Strategy (MIS) and National Strategy on Domestic, Sexual and Gender-based Violence (NSDSGBV). NTRIS Data Sub-group has only convened three times since 2017 and has come to a halt; no data group consisting of statutory services has been convened as part of the NSDSGBV. As part of the NSGSGBV, the national police service (An Garda Síochána) and the Courts Service report that there is 'no legal basis for ethnic data to be collected' and that ethnic data is not relevant to their services.

^{xiv} For instance, a small number of health service providers have introduced ethnic identifiers. However, ethnic categories are not standardised; ethnic identity is often ascribed to Travellers and Roma by using proxies such as name or looks; and the data is not disaggregated, analysed or provided to stakeholders within an appropriate timeframe.

^{xv} The application of the Habitual Residence Condition (see section 2.3) and the Housing Circular 41/2012^{xv} is precluding many Roma from accessing a range of social welfare supports, including housing and homeless supports. Curran et al., *National Needs Assessment*, 2018.

^{xvi} Department of Justice and Equality, *CERD Combined 5th, 6th and 7th Periodic Report – IRELAND*, 2018, CERD/C/IRL/5-9, para. 41.

^{xvii} According to the Minister for Housing, Planning and Local Government, 19 local authorities have not drawn down any of the 2019 funding towards Traveller specific accommodation to date. The budget available for Traveller-specific accommodation in 2019 is €13 million with €1.84m drawn down to date. In Irish Human Rights and Equality Commission, 'Human Rights and Equality Commission Launches National Review into Council Traveller Accommodation Provision', 28 June 2019, <https://www.ihrec.ie/human-rights-and-equality-commission-launches-national-review-into-council-traveller-accommodation-provision/>; The Traveller Accommodation Expert Group, *Traveller Accommodation Expert Review*, 2019, https://www.housing.gov.ie/sites/default/files/publications/files/2019_july_expert_review_group_traveller_accommodation-final_reportrt_00.pdf

^{xviii} A report published in July 2019 on behalf of the Minister of the Department of Housing, Planning and Local Government by an independent Expert Group on Traveller Accommodation, sets out a clear recommendation to overhaul the Housing (Traveller Accommodation) Act 1998 and other relevant legislation and policies which impact on accommodation provision for Travellers. Independent Expert Group on behalf of the Minister of the Department of Housing, Planning and Local Government, *Traveller Accommodation Expert Review*, 2019. In 2016, the European Committee of Social Rights (ESCR) found Ireland to be in violation of Article 16 of the European Social Charter on five grounds, including insufficient provision of accommodation for Travellers, and noted that there was unreasonable grounds for Traveller evictions - The full text of the Decision on Merits in the case will shortly be added to the online database of legal decisions and conclusions under the European Social Charter at <http://hudoc.esc.coe.int/eng#>. Serious concerns over the implementation of the Housing (Traveller Accommodation) Act 1998 and/or the Housing (Miscellaneous Provisions) Act 2002 have been raised by the HRC, 2014; UNCCPR, 2014; UNCESCR, 2015, UNCEDAW, 2017. The Council of Europe's Commissioner for Human Rights, Nils Muižnieks conducted a three-day visit to Ireland in November 2016. His report is available here: <https://rm.coe.int/report-on-the-visit-to-ireland-from-22-to-25-november-2016-by-nils-mui/16807bcf0e>. More recently, the Advisory Committee on the FCNM (2019) and ECRI (2019) have urged the State to tackle the problem of underspending of Traveller accommodation budgets by Local Authorities and to step up efforts to meet the accommodation needs of Travellers. The ECRI proposes imposing dissuasive sanctions on local authorities for failure to spend allocated funding, or removing the responsibility for Traveller accommodation from local authorities and placing it under the authority of a central housing commission as potential solutions to the issue. In Advisory Committee on the FCNM, 2019; ECRI, 2019.

^{xix} NTRIS Action 11 commits the Department of Education and Skills to review the 2006 Report and Recommendations for a Traveller Education Strategy. The review was to be published in early 2017. Department of Justice and Equality, *NTRIS 2017-2021*; Houses of the Oireachtas, *Traveller Education Dáil Éireann Debate*, 23 October 2018, <https://www.oireachtas.ie/en/debates/question/2018-10-23/294/>.

^{xx} NTRIS Action 17 aims to implement community-based supports to assist retention of Traveller and Roma children in education. As part of this action, a new Traveller education pilot programme is currently being initiated through the NTRIS education sub-group. No initiative is taken on Roma education in *NTRIS 2017-2021*.

^{xxi} In 2019, the Advisory Committee on the FCPNM urged the State to adopt a coherent Traveller and Roma Education Strategy and an implementation plan with clear targets, indicators, timeframes and resources, in FCPNM, 2019.

^{xxii} 40% of Roma households with children are not successful in applying for social protection payments due to the implementation of right to reside, European Directive 2004/38, and habitual residence condition (HRC), policy by the Department of Social Protection. Under the European Directive Roma have a right of residence without restriction for three months. Establishing a right to reside is a prerequisite to meeting the HRC, which a person must

meet in order to access welfare supports, including Child Benefit, Job Seekers Allowance, Rent Allowance, public housing, and employment and training supports. Roma face significant difficulties with proving residency in the State with lack of documentation, proof of address and language and literacy skills. 25.5% of Roma don't have the right to reside; 25.7% of Roma are not habitually resident; 38.5% of Roma don't know if they have a right to reside; 26.9% don't know if they are habitually resident. Curran et al., *National Needs Assessment*, 2018.

^{xxiii} UNGA, *Report of the Special Rapporteur on Extreme Poverty and Human Rights*, Magdalena Sepúlveda Carmona, A/HRC/20/25, 2012, para 102; European Commission against Racism and Intolerance, *ECRI Report on Ireland Fourth Monitoring Cycle*, CRI (2013)1, 2013, para 130; UNCEDAW, 2017; UNCRC, 2016; HRC, 2014; UNCESCR, 2015.

^{xxiv} The Prohibition of Incitement to Hatred Act 1989 has been long recognised as inadequate and ineffective for dealing with hate speech, including by the CERD Committee in 2011. Only a small number of convictions have been secured under the Act, and the Act fails to address online hate speech to which Travellers and Roma are subjected to on a daily basis. While the State has committed to reviewing the Act, the review is yet to be published. During its previous examination in 2011, the CERD Committee called for 'efforts aimed at strengthening the protection of all people from racial discrimination by improving the existing draft pieces of legislation and passing them into law. UNCERD, *Concluding Observations on the Third and Fourth Reports of Ireland*, CERD/C/IRL/CO/3-4, 4 April 2011.

^{xxv} Curran et al., *National Needs Assessment*, 2018.

^{xxvi} Section 12 of the Child Care Act 1991 is the principal legal mechanism through which police perform its child protection function in Ireland. This section authorises a member of the police to remove a child from the care of his or her family, or a person acting in loco parentis, in circumstances where that police officer believes "there is an immediate and serious risk to the health or welfare of a child", and where that police officer also believes "it would not be sufficient for the protection of the child from such immediate and serious risk to await the making of an application for an emergency care order by [the Child and Family Agency] under section 13". *Child Care Act, 1991*, Section 12, <http://www.irishstatutebook.ie/eli/1991/act/17/section/12/enacted/en/index.html>.

^{xxvii} One of the children was a two year old boy in Athlone, Co. Westmeath, referred to as Child A; and the other child was a seven year old girl in Tallaght, Co. Dublin, referred to as Child T. The two children had blonde hair and were removed from their families due to perceived differences between the children and their parents. Ombudsman for Children, *Garda Síochána Act 2005 (Section 42) (Special Inquiries relating to Garda Síochána) Order 2013*, 2014, <http://www.justice.ie/en/JELR/Emily%20Logan%20report.pdf/Files/Emily%20Logan%20report.pdf>. A further audit of the use of the Section 12 of the Child Care Act 1991 was launched – the report found that crucial demographic data to draw conclusions about ethnic or racial profiling in the police data base (PULSE) is not recorded. Geoffrey Shannon., *Audit of the Exercise by An Garda Síochána of the Provisions of Section 12 of the Child Care Act 1991*, 2017, <https://www.drugsandalcohol.ie/27362/1/Audit%20of%20Section%2012%20Child%20Care%20Act%201991.pdf>.