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**Re: Visit to Ireland by the OSCE Special Representative (OSR) and Co-ordinator for Combating Trafficking in Human Beings, Valiant Richey 20<sup>th</sup> February 2020: Country Specific Information Prior to the Special Representative's Visit to Ireland**

### **Introduction**

Pavee Point welcomes the country visit by the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, and the direct and constructive dialogue with civil society organisations on this matter.

### **Pavee Point Traveller and Roma Centre**

Pavee Point is a non-governmental organisation committed to the attainment of human rights for Irish Travellers and Roma in Ireland. The group is comprised of Travellers, Roma and members of the majority settled population working together in partnership. The aim of Pavee Point is to contribute to improvement in the quality of life and living circumstances of Irish Travellers and Roma through working for social justice, solidarity, socio-economic development, and human rights.

### **Pavee Point Roma Programme**

Pavee Point has a dedicated Roma Programme which works to progress the realisation of Roma rights in Ireland. This work includes providing policy analysis in relation to Roma issues in Ireland within wider international Roma and human rights policy frameworks.

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Our goals:

1. Progression of Roma rights and health outcomes through the development of evidence based policy and interventions.
2. Increase Roma access to and engagement with health and other services.
3. Emergence of strong Roma leaders, working from community development and human rights principles.

Although Pavee Point's work does not directly deal with counter-trafficking activities, through our commitment to the attainment of human rights for Irish Travellers and Roma, we aim to eradicate the root causes which make trafficking possible and prevent victims of trafficking from seeking support and protection. This involves working with the government to put in place mechanisms to promote, protect and monitor the human rights of Roma in Ireland.

### **Trafficking of Roma in Ireland and lack of data**

At present, to our knowledge, there is no data in Ireland in relation to Roma communities' experiences of trafficking. Data disaggregated by ethnicity is not collected across relevant statutory and non-statutory services which would allow for such information to be captured and monitored. No such data is available from the Irish Police Service (An Garda Síochána) or the Courts Service, as they have not introduced an ethnic identifier into their data collection system. Where data by ethnicity is collected by some non-statutory services in Ireland this does not always take place in line with human rights standards, thus making such data unreliable.

Concerns at the lack of disaggregated data by ethnicity and gender have been raised by numerous international human rights monitoring bodies, most recently by UN CERD Committee in December 2019<sup>1</sup>.

However, despite this lack of official data, we know that Roma in Ireland are experiencing, unemployment, poverty and homelessness<sup>2</sup> which are factors that often create the conditions

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<sup>1</sup> CERD, *Concluding Observations on the Combined Fifth to Ninth Reports of Ireland*, CERD/C/IRL/CO/5-9, 12, 12 December 2019 Available at: [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/IRL/INT\\_CERD\\_COC\\_IRL\\_40806\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/IRL/INT_CERD_COC_IRL_40806_E.pdf)

<sup>2</sup> These issues are documented in the *Roma in Ireland: A National Needs Assessment*. This report was undertaken by Pavee Point in partnership with the Department of Justice and Equality and published in 2018: Pavee Point Traveller and Roma Centre and Department of Justice and Equality, 'Roma in Ireland: A National Needs Assessment' (2018) Available at: <https://www.paveepoint.ie/wp-content/uploads/2015/04/RNA-PDF.pdf>

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for trafficking to happen. A Research by the European Roma Rights Centre (ERRC) has established a direct correlation between trafficking of Roma with ethnic and gender discrimination, structural poverty, low level of education, high unemployment rate and growing up in state care. These roots causes are similar to those associated with non-Romani trafficked persons. Therefore, there is no indication that trafficking is a “cultural practice” of Roma (ERRC).<sup>3</sup>

Although our work in Pavee Point does not directly deal with counter-trafficking activities, we aim to eradicate the root causes that make trafficking possible. Below are outlined some of the most significant issues that Roma face in contemporary Ireland. Pavee Point believes that by addressing these issues, Roma will be less likely to be victims of trafficking activities.

### **Habitual Residence Condition (HRC)**

The Habitual Residence Condition (HRC) was introduced in 2004 to ‘protect’ Ireland’s social welfare system from becoming ‘overburdened’ and in particular to prevent ‘welfare tourism’ post EU enlargement by migrants from the 10 new EU States. The habitual residence is a condition which every applicant must satisfy in order to qualify for certain social welfare assistance payments and Child Benefit.

The following 5 factors are taken into account to determine whether a person can be deemed to be habitually resident in Ireland:

- Length and continuity of residence in Ireland
- Length and purpose of any absence from Ireland
- Nature and pattern of employment
- Your main centre of interest
- Your future intentions to live in Ireland as it appears from the evidence

This condition is applied to all applicants regardless of nationality. However, the requirement to meet this condition, in order to qualify for social welfare payments, has a disproportionate impact on Roma communities. A lack of documentation can often be problematic and is a barrier to meeting the habitual residence condition as some Roma cannot prove the length of

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<sup>3</sup> European Roma Rights Centre, ‘*Breaking the Silence: Trafficking in Romani Communities*’ (2011) Available at: <http://www.errc.org/reports-and-submissions/breaking-the-silence-trafficking-in-romani-communities>

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time they have lived in Ireland or their connection with the State. If a person is unemployed or has worked informally, is living in accommodation without a tenancy agreement or utility bills and has not been keeping documentation to prove residency in the State, difficulties can arise. This is compounded by language and literacy issues (Pavee Point 2018: 78-79).<sup>4</sup>

The consequence of not being qualified as habitually resident in the country has a strong repercussion on Roma children who are often living in poverty. Furthermore Roma women, who do not meet the criteria for the HRC, are unable to access refuges.<sup>5</sup> Moreover, Roma who do not have an income or have difficulties with providing evidence of where they live, cannot access means tested medical cards. This is a serious barrier for Roma who need to access health services.

Pavee Point believes that Child Benefit should not be subjected to the HRC because of its direct impact on children and because of growing concerns, including from those within the social welfare system, that it contravenes EU and international law. Child benefit should revert to being a universal payment for every child in the State. This is in line with the recommendations made by UN CRC<sup>6</sup> in March 2016. Moreover, Pavee Point advocates for the removal of the use of the HRC to be applied in cases of trafficked persons.

### **Roma in National Policy Responses**

Ireland's National Traveller Roma Inclusion Strategy, Migrant Integration Strategy, and National Action Plan to Prevent and Combat Human Trafficking have failed to contain any targeted action to address trafficking of Roma or the barriers for Roma to access crucial services, supports and protection in Ireland. The lack of access to social welfare supports and other crucial services that many Roma in Ireland face is currently not being addressed through any of the above government policy responses.

As the timeframe for the current European Framework for National Roma Integration Strategies (2011-2020) comes to an end in 2020, it is vital that the issue of trafficking of Roma and effective responses to it are addressed within the context of the new wider

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<sup>4</sup> Pavee Point Traveller and Roma Centre and Department of Justice and Equality, 'Roma in Ireland: A National Needs Assessment' (2018) Available at: <https://www.paveepoint.ie/wp-content/uploads/2015/04/RNA-PDF.pdf>

<sup>5</sup> Women's refuges may sometimes accommodate women who are not habitually resident, but only for a short emergency period.

<sup>6</sup> United Nations Committee on the Rights of the Child, *Concluding Observations on the Combined Third and Forth Periodic Reports of Ireland* CRD/C/IRL/CO/3-4, 1<sup>st</sup> March 2016 Available at: <https://undocs.org/en/CRC/C/IRL/CO/3-4>

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European Roma inclusion framework. Implementation of the National Roma Inclusion Strategies must be reinforced in both, countries where Roma are being trafficked from and in countries where Roma victims are trafficked to, in order to prevent Roma becoming vulnerable to trafficking and to ensure appropriate and robust responses to Roma victims of trafficking.

### **Housing and Accommodation**

Homelessness continues to remain a major issue in Ireland. The pervading problem is the difficulty for Roma families and individuals to find accommodation in the private market because of the exceptional high level of racism they face. This is coupled with the obstacles that Roma face when being assessed for social housing need. The criteria set out in the **Housing Circular 41/2012**<sup>7</sup> for accessing social housing support in Ireland means that many homeless Roma have no available support. One of the conditions of this Housing Circular is that in order to be assessed for social housing support, the applicant must be in employment or have been in employment for at least 1 year. We know that this is impacting disproportionately on the Roma community as the unemployment rate is exceptionally high (at over 80%) among this ethnic group in Ireland<sup>8</sup>.

Moreover, there is a lack of specific actions on Roma and Accommodation in the **National Traveller Roma Integration Strategy (NTRIS) 2017-2021**. It is imperative that this significant gap is addressed as soon as possible.

### **Recommendations**

- Ensure humanitarian responses to Roma victims of trafficking, including the removal of the application of the Habitual Residence Condition (HRC) in cases of trafficked persons. The Department of Employment Affairs and Social Protection (DEASP) should also remove the HRC criteria in relation to Child Benefit making it a truly universal benefit.
- In order to eradicate the root causes of Roma vulnerability to trafficking, a pan-European response must be adopted through accelerated implementation of National Traveller and Roma Inclusion Strategies (NTRIS) in countries of origin and

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<sup>7</sup> Housing Circular 41/2012 available at <https://www.focusireland.ie/wp-content/uploads/2016/03/FileDownload29412en.pdf>

<sup>8</sup> 16.7% of respondents reported that they are in employment. This data is taken from: Pavee Point Traveller and Roma Centre and Department of Justice and Equality, 'Roma in Ireland: A National Needs Assessment' (2018) Available at: <https://www.paveepoint.ie/wp-content/uploads/2015/04/RNA-PDF.pdf>.

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destination. Moreover, in the specific context of the Irish State, it is imperative that the Department of Justice and Equality introduces actions on Roma and Accommodation in NTRIS.

- The Department of Housing, Planning and Local Government should repeal the 41/2012 Housing Circular for its negative impact particularly on Roma living in Ireland.
- In order to monitor and develop relevant responses to trafficking of Roma in Ireland, the introduction of ethnic equality monitoring across all Government Departments is essential. This ethnic data collection needs to take place in line with human rights standards.
- Undertake awareness raising activities with members of Roma communities to increase awareness about available services and supports.
- Undertake awareness raising activities among general public, services and policy makers to combat negative stereotypes and prejudice against Roma.