



PAVEE POINT
TRAVELLER AND ROMA CENTRE

Submission on Ireland's examination at the 111th Session of the Human Rights Committee, 7th - 25th July 2014

1. Reporting Organisation

Pavee Point Traveller and Roma Centre

Pavee Point Traveller and Roma Centre has been working to challenge racism and promote inclusion in Ireland since 1985. The organisation works from a community development perspective and promotes the realisation of full human rights and equality for Travellers and Roma in Ireland.

Travellers in Ireland

There are approximately 36,000 Travellers living in the Republic of Ireland.¹ Travellers are one of the most marginalised and excluded groups in Irish society evidenced in all indicators of disadvantage such as:

- 84% of Travellers are unemployed in comparison to an overall national figure of 14% (Census 2011)
- 7.6% of Travellers, or 2,753 Traveller men women and children do not have access to running water (AITHS 2010)²
- Traveller mortality rates are three times the national average; life expectancy for Traveller men is 15 years less and for Traveller women 12 years less than the national population; suicide rates are over six times the national average.
- Census 2011 shows that 55% of Travellers leave school before the age of 15. Less than 1% of Travellers go on to third level education.

Roma in Ireland

There is an estimated 5,000 Roma living in Ireland, however, there is no official Government data in relation to the population of Roma in Ireland. Many Roma in Ireland are living in poverty due to a lack of access to work opportunities and restrictive social welfare measures.

¹ All-Ireland Traveller Health Study, 2010.

² The All-Ireland Traveller Health Study (also known as "Our Geels") was undertaken in 2010 by University College Dublin in partnership with Traveller groups and the Health Service Executive.

Roma find it difficult to gain employment due to factors including racism, discrimination and lack of training and formal education. There is a lack of vocational training options for Roma in Ireland and no clear strategy to facilitate Roma participation in mainstream training programmes. For those who are unable to find employment or access supports, their only options include reliance on charities and family or 'voluntary repatriation' to country of origin.

2. Key issues for consideration³

National Committee on Racism and Interculturalism and the National Action Plan Against Racism.

The National Consultative Committee on Racism and Interculturalism (NCCRI) was closed down in December 2008 as an austerity measure. A number of initiatives that were undertaken by the NCCRI were key in tackling and challenging racism. These included development of policies and measures to create an intercultural society e.g. Intercultural Health Strategy, Intercultural Education Strategy, Intercultural Youth Strategy etc. They coordinated the National Action Plan Against Racism and the Know Racism Campaign (Public Awareness) They also developed the reporting and monitoring of racist incidents system. Training in anti-racism and interculturalism and resources were provided to a range of public service bodies and to NGOs.

The NCCRI took a very pro-active approach in working with minority ethnic groups including Travellers and Roma and other groups experiencing racism. It was intended that its functions would be transferred to the Office for the Promotion of Migrant Integration. However this has not happened. While the office undertakes measures for the promotion of migrant integration it has not absorbed all of the above functions outlined above. Furthermore, its focus on migrants means that it does not include Travellers in its remit and this has had the effect of excluding Travellers from the remit of anti-racism and intercultural initiatives which sit in the Office for the Promotion of Migrant Integration. There is a separate Traveller Policy Division in the Department of Justice and Equality and the particular experience of Roma has not been addressed effectively by either the Traveller Policy Division or the Office of the Minister for Integration.

The National Action Plan Against Racism (2005-2008) has not been renewed. Despite this the National Action Plan was referenced as part of Ireland's commitment to human rights as a member of the Human Rights Council in 2012⁴ The failure to renew the National Action Plan has been noted as a concern by the European Commission on Racism Intolerance (ECRI) in its most recent report on Ireland, 2013. In 2011, the Committee on the Elimination of All Forms of Racial Discrimination (CERD) noted the importance of the State giving effect to the Durban Declaration and Programme of Action through the National Action Plan and Ireland will be required to include specific information on this in its next periodic report.

³ Based on the list of issues developed by the Human Rights Committee (CCPR/C/IRL/Q/4) and the reply by Ireland (CCPR/c/Irl/Q/4/Add.1)

⁴ Letter dated 13 April 2012 from the Permanent Representative of Ireland to the United Nations addressed to the President of the General Assembly.

In the reply to the list of issues provided by the HRC in relation to the fourth periodic report of Ireland (CCPR/c/Irl/Q/4/Add.1) the Irish Government notes that ‘since 2005, there has been a substantial penetration of anti-racist policies, programmes and activities and awareness raising initiatives. The focus is now on the continued implementation of the sectoral strategies which flowed from the Plan. As such, it is not intended to focus on developing a National Action Plan against Racism.’ There is no evidence of a systematic and publicly available analysis of the penetration of anti-racist policies. On the contrary, the very organisations that have a role in protecting people against non-discrimination and racism have experienced huge cuts as part of austerity measures. Funding to the National Women’s Council of Ireland, the leading women’s organisation in Ireland has been cut by 50%⁵ Funding for local based women’s projects has been cut by 35% since 2011⁶. From 2008-2013 National Traveller Organisations have faced cuts of 63%⁷

Racist monitoring by voluntary organisations show ongoing racism in Ireland. The Irish Network against Racism (<http://enarireland.org/anti-racism-graphics/signs-ireport-racism/>) reported 91 racist incidents in the months from October to December 2013 alone. Travellers and Roma experience racism at individual and institutional levels. Travellers continue to report racism by individuals when accessing a range of goods and services. Roma report being told to “go home” when they try to access support services and experience racist abuse on the streets. A high profile example of this continuing racism occurred in Donegal earlier this year where a house allocated to a Traveller family was burnt out in an arson attack, in order to prevent the family moving in. This followed anti-Traveller statements made by local councillors. In June 2013, Roma families in Tallaght experienced a number of attacks on their houses, including windows being broken and threats being made. Furthermore, public officials continue to make anti-Traveller, Roma and migrant statements with no accountability, including politicians, judges and political commentators. In the 2014 local elections two local councillors, used anti-Traveller rhetoric in their campaigns for election. Both got elected. This all points to the need for a strong National Action Plan Against Racism.

We respectfully suggest that the Committee make the following recommendations to the State:

- **Re-establish an independent advisory body to government on addressing racism similar to the National Consultative Committee on Racism and Interculturalism.**
- **Renew/introduce a new National Action Plan against Racism with strong civil society involvement at all stages in the development and implementation of the plan.**

⁵ Department of Finance/ Department of Public Expenditure and Reform: Budget 2012 and 2013

⁶ ibid

⁷ Harvey, Brian, (Pavee Point Traveller and Roma Centre, 2013) “Travelling with Austerity”

Steps taken to establish a systematic data collection procedure concerning cases of domestic and sexual violence

Pavee Point is a member of the Women's Human Rights Alliance and shares the concerns in relation to the lack of systematic data collection in relation to violence against women. Pavee Point asserts the need for good quality data to develop evidenced based policy, plan service provision and identify gaps in services or discrimination, in line with human rights obligations. Data should be disaggregated along factors including ethnicity in order to be able to monitor non-discrimination.

We respectfully suggest that the Committee make the following recommendations to the State:

- **Allocate resources to fund a Sexual Abuse and Violence in Ireland Report in relation to establishing the nature and extent of sexual abuse and violence in Ireland and prioritise the work of COSC (The National Office for the Prevention of Domestic, Sexual and Gender-based Violence) in relation to collecting disaggregated domestic violence data.**

Measures taken to ensure women experiencing violence are not impacted by the habitual residence condition.

This issue has not been addressed in the Government's response to the list of issues outlined by the Human Rights Committee to the fourth periodic report of Ireland.

The requirement to satisfy the Habitual Residence Condition (HRC) can have particular gender implications. Habitual residence is a condition which applicants must satisfy in order to qualify for certain social welfare assistance payments, including child benefit. Habitual residence essentially means an applicant must be able to prove a close link to Ireland. Five factors are considered to determine habitual residence:

- a. the length and continuity of residence in the state or in any other particular country;
- b. the length and purpose of any absence from the state;
- c. the nature and pattern of the person's employment;
- d. the person's main centre of interest;
- e. the future intentions of the person concerned as they appear from all the circumstances.

All applicants applying for social protection are required to meet the habitual residence condition, including Irish citizens and EU citizens. Application of the habitual residence condition has placed migrants, Travellers (who move across jurisdictions, generally from the UK to Ireland) and Roma in Ireland (and indeed returning Irish immigrants) in very vulnerable positions, whereby they cannot access any support services. Pavee Point maintain from our experience working with Roma and Travellers that it has a disproportionate impact on these groups and is discriminatory. HRC has a particular negative impact upon women experiencing violence and children. For women trying to leave a situation of violence, if they do not meet the habitual residence condition, they are in a very vulnerable situation. It

means they do not have access to financial resources from the State and it impacts a women's ability to access a refuge as a person generally has to be in receipt of social welfare to access a refuge beyond an emergency period. Ireland must ensure that women experiencing violence are not subject to the habitual residence condition.

Concerns about HRC have been raised by the Special Rapporteur on extreme poverty and human rights she has stated in her 2012 report that she 'encourages the Government to review the impact of the condition as a matter of priority.' ECRI has also recommended that Irish authorities review the impact of HRC. This has still not taken place and the Department of Social Protection has stated that it does not intend to undertake a review of the impact of the HRC.⁸

We respectfully suggest that the Committee make the following recommendations to the State:

- **Allocate funding for specific initiatives aimed at tackling violence experienced by Traveller and Roma women.**
- **Amend the Habitual Residence Condition to make an exception in cases of domestic violence against women so that women can have ease of access to refuge and other support services.**
- **Ring fence funding to restore an adequate level of service provision and to support effective advocacy by women's groups at local, regional and national level.**

Steps taken to recognise Travellers as an ethnic minority based on the principle of self-identification.

Despite the recommendation of many UN treaty monitoring bodies (CERD; CEDAW; CRC), and that of a range of European institutions (ECRI, FCPNM; Council of Europe) as well as equality and human rights bodies within Ireland including the Irish Human Rights Commission and Equality Authority, the Government continues to refuse to acknowledge Traveller ethnicity. Various countries also made recommendations for recognition during the UPR process in 2011. This impacts Travellers in many ways. In particular, the Government division responsible for development of anti-racism initiatives does not include Travellers as part of its brief and so Travellers are not included in such initiatives by design. In short, racism against Travellers is not acknowledged by the State.

In April 2014 the Government Committee on Justice, Defence and Equality produced a report on the recognition of Traveller ethnicity⁹ This report was based on number of written submissions and three public hearings with a number of stakeholders, to consider the issues in more detail. The report is endorsed by the Committee, which has representation across

⁸ A Departmental working group was set up in June 2010 to review the **operation** of the habitual residence guidelines. However, this review did not examine the impact of the habitual residence condition.

⁹ <http://www.oireachtas.ie/parliament/media/committees/justice/Report-onTraveller-Ethnicity.pdf>

political parties. The report recommends that **the Taoiseach or the Minister for Justice and Equality should make a statement to Dáil Éireann confirming that this State recognises the ethnicity of the Travelling community.** The Committee report has also recommended that the Government should then write to the relevant international bodies, confirming that this State recognises the ethnicity of the Travelling community. This report now needs to be acted upon as a matter of urgency.

We respectfully suggest that the Committee make the following recommendations to the State:

- **Take immediate steps to recognize Travellers as an ethnic minority group**

Concrete measures to support Travellers who are nomadic or semi-nomadic

Section 24 of the Housing Miscellaneous Provisions Act (2002) continues to criminalise nomadism and disproportionately impacts upon Travellers. This makes trespass on land with an 'object' such as a caravan, a criminal offence, despite the lack of provision of transient sites by local authorities. This means nomadic Travellers are prevented from travelling. This is a form of institutionalised racism. This section of the legislation needs to be repealed.

In each local authority area, Traveller Accommodation Plans are required to be developed by the authorities, under the Housing (Traveller Accommodation) Act 1998. The lack of political will and the lack of incentives or sanctions in the legislation have resulted in local authorities failing to provide adequate accommodation for Travellers under the Housing (Traveller Accommodation) Act 1998. Transient sites are required to enable nomadic Travellers to move. Currently, there is only one transient site in Ireland. ECRI (2013) has stated 'National authorities should envisage introducing measures binding on local authorities and raising awareness among the general public of Traveller accommodation rights and promote respect thereof.'

Furthermore, Traveller accommodation has seen a huge disinvestment in recent years. The report 'Travelling with Austerity' shows a fall in allocations in relation to accommodation from €40m in 2008 to €6m in 2012, down 85%. A further problem is that substantial parts of the allocation are unspent. For example in 2012, 34% of the reduced accommodation budget was unspent. There have also been cuts in other areas including Traveller education (86.6%), National Traveller Organisations (63.6%) and local interagency activities (100%).

The researcher has concluded,

These figures tell an egregious story of an extraordinary level of disinvestment by the Irish state in the Traveller community. One can think of no other section of the community which has suffered such a high level of withdrawal of funding and human

resources, compounded by the failure of the state to spend even the limited resources that it has made available.”¹⁰

We respectfully suggest that the Committee make the following recommendations to the State:

- **Repeal the Housing Miscellaneous Provisions Act**
- **Introduce measures binding on local authorities to implement the Housing (Traveller Accommodation) Act 1998 including the provision of transient sites in each local authority area, with the appropriate funding to do so.**

Specific measures to ensure Roma living in Ireland have full enjoyment of Covenant rights, including to political participation and the right to be protected against arbitrary interference with their family life.

The Irish government has not developed a strategy or specific measures to ensure that Roma rights are respected, protected or fulfilled. There is no collection of data in relation to Roma by the State and no national policy to ensure Roma inclusion and the realisation of human rights. Due to the lack of targeted policies in Ireland, a history of discrimination throughout Europe and the disproportionate impact of certain policies in Ireland, such as the habitual residence condition, Roma are placed in very vulnerable situations. Some have to beg to survive. In 2012, the body of a young Roma girl, Marioara Rostas was found by police. She had been abducted in Dublin in 2008. This tragic situation highlights concerns about risks faced by members of Roma communities and in particular Roma women, in Ireland. Roma women are a risk of exclusion and violence as Roma, as migrants and as women.

Irish Government has been required by the European Commission to develop a Roma and Traveller integration strategy. However, Ireland’s strategy is completely inadequate at present and was developed with no involvement of Roma or Travellers. It also contains no reference to human rights. The Irish Government submitted a document entitled ‘Ireland’s National Traveller/Roma Integration Strategy’ to the European Commission in January 2012.

- This document mainly sets out the strategies already in place for the Traveller Community in the areas of Education, Accommodation, Healthcare and Employment.
- The document contains no goals, targets, indicators or related timeframes, funding mechanisms or monitoring and evaluation mechanisms.
- No consultation or facilitation of active participation of Travellers and Roma has taken place.
- Roma are largely excluded from this document.

The 2013 assessment of Ireland’s National Traveller Roma Integration Strategy, by the European Commission was very critical, whereby Ireland met 4 out of 22 criteria. The 2014 assessment continues to raise serious concerns in relation to the content of the document and lack of targets, lack of detail in some areas and funding mechanisms.

¹⁰ Harvey, Brian, (Pavee Point Traveller and Roma Centre, 2013) ‘Travelling with Austerity’

In this context Roma are not guaranteed the full enjoyment of Covenant rights. This was demonstrated through two incidents in 2013 where Roma children were removed from their families into State care as they had fair skin and blonde hair, unlike their parents. In both cases it was later discovered that these children were living with their biological families and the children were returned. This followed the high profile case of the young Roma girl, Maria in Greece, who had been taken into care. It is clear that wider stereotypes about Roma and negative media reporting provided a context in which these children were removed. It is the view of Pavee Point Traveller and Roma centre that the ethnicity of the families was the key factor in the removal of these children from their families.

We respectfully suggest that the Committee make the following recommendations to the State:

- **Establish a cross-departmental steering group with Roma, Traveller and civil society representation, to develop a progressive National Traveller and Roma Integration Strategy, in line with human rights commitments.**

Criminal legislation prohibiting hate speech to ensure comprehensive and effective protection of minority groups.

The Government's key legislation for dealing with racist crime and speech is the Incitement to Hatred Act, 1989 (art. 20. 1). Criticisms of the legislation include:

- It relates to "incitement" and not racist act in itself;
- It can be difficult to prove intent - The average number of successful prosecutions since the act was introduced stands at less than one per year;
- The penalties do not reflect the seriousness of the crime;
- Judgments of District and Circuit Courts where these cases are held are not recorded (unless reported in local media), so there is little visibility of outcomes.
- Lack of capacity to tackle incitement to hatred on social media.

No measures have been taken to effectively prohibit hate speech and protect minority groups from hate speech and hate crime. The need for this is clear. In this context, the 2011 report CERD recommended that legislation be passed to declare that racist motivation be consistently taken into account as an aggravating factor in sentencing practice for criminal offences.

We respectfully suggest that the Committee make the following recommendations to the State:

- **Develop robust legislation to prohibit hate speech with provision to take racist motivation into account as an aggravating factor in sentencing practice for criminal offences.**