

## Roma and Travellers Survey 2019 Legislation, policy and practical aspects

**Country:** Ireland

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	Questions	Yes/ No	Supporting information (provide also relevant links, if appropriate and where possible)
1	Are there <u>practical barriers</u> that hinder Roma and Travellers from using anti- discrimination and/or hate speech/hate crime laws and procedures (e.g.	Yes	As indicated in the recent CERD's concluding observations on Ireland and the Fifth Report on Ireland by the European Commission against Racism and Intolerance (ECRI), hate crimes laws are reported to be largely ineffective in the country. <sup>1</sup> The Prohibition of Incitement to Hatred Act (1989) narrowly
	affordability of access to procedures, lack of awareness, lack of effective and Roma		deals with cases of hate speech aimed at inciting hatred and has been under review for nearly 20 years. <sup>2</sup>
	and Travellers 'friendly' recording structures)? Please indicate and explain briefly two such		While, the Irish Human Rights and Equality Commission (IHREC) expressed 'the view that Ireland's current approach to hate motivation does not adequately meet its international obligations', <sup>3</sup> the <u>government has expressed</u>
	main barriers. Justify your answer by referring to existing reports and data		its confidence in soon meeting state duties under CERD and the European Framework Decision. Indeed, in October 2019, the Department of Justice and
	produced by national human rights institutions, equality bodies, Ombuds		Equality (DoJE) sought responses / submissions from institutional / community stakeholders and the broader public as part of a consultative

<sup>&</sup>lt;sup>1</sup> Committee on the Elimination of Racial Discrimination (2019), Advance Unedited Version: Concluding observations on the combined fifth to ninth reports of Ireland, 12 December 2019, paras. 19-22, available at: <u>https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/IRL/INT\_CERD\_COC\_IRL\_40806\_E.pdf;</u> Council of Europe, European Commission against Racism and Intolerance (2019), *Fifth Report on Ireland*, 2 April 2019, Strasbourg, available at: <u>www.coe.int/en/web/european-commission-against-racism-and-intolerance/ireland</u>.

<sup>&</sup>lt;sup>2</sup> Ireland, Government of Ireland, Prohibition of Incitement to Hatred Act, n. 19/1989, available at: <u>http://www.irishstatutebook.ie/eli/1989/act/19/enacted/en/html</u>; Irish Human Rights and Equality Commission (2019). 'Review of the Prohibition of Incitement to Hatred Act 1989 - Submission to the Department of Justice and Equality public consultation', available at: <u>www.ihrec.ie/app/uploads/2019/12/Review-of-the-Prohibition-of-Incitement-to-Hatred-Act-1989.pdf</u>.

<sup>&</sup>lt;sup>3</sup> Irish Human Rights and Equality Commission - IHREC (2019), 'Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report, available at: <u>https://www.ihrec.ie/app/uploads/2019/11/IHREC CERD UN Submission Oct 19.pdf</u>.

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institutions or other relevant sour	
including civil society organisation	
Please provide links to the report that you have used.	sources Decision 2008/913/JHA. <sup>5</sup> Inter alia, the IHREC made a submission to the review in December. <sup>6</sup>
Indicative length: two short parag	According to international monitoring and domestic NGOs, Mincéirí (Mincéir is the Irish language term for member of the Traveller community ) and Roma are frequently subjected to hate crime and hate speech by private and public actors. <sup>7</sup>
	Notwithstanding the above, Gardaí (Irish police) can still investigate and prosecute hate crimes using existing criminal law. Hate crimes against Mincéirí and Roma are underreported and underrecorded, and third party reporting mechanisms found the reason for this being a common belief by both communities that the Gardaí will do nothing about it and hate incidents happened too often. <sup>8</sup> As such, unequal access to justice is one of the main barriers for Mincéirí and Roma.

<sup>&</sup>lt;sup>4</sup> Ireland, Department of Justice and Equality (2019), 'Hate Speech Consultation', available at: <u>www.justice.ie/en/JELR/Pages/Hate Speech Public Consultation</u>; <sup>5</sup> Ireland, Department of Justice and Equality (2019), 'The Migrant Integration Strategy 2017-2020 - Progress Report to Government – Office for the Promotion of Migrant Integration, June 2019, available at: <u>www.justice.ie/en/JELR/The%20Migrant%20Integration%20Strategy%202017-2020.pdf</u>.

<sup>&</sup>lt;sup>6</sup> Irish Human Rights and Equality Commission (2019), 'Review of the Prohibition of Incitement to Hatred Act 1989 - Submission to the Department of Justice and Equality public consultation', available at: <a href="https://www.ihrec.ie/app/uploads/2019/12/Review-of-the-Prohibition-of-Incitement-to-Hatred-Act-1989.pdf">www.ihrec.ie/app/uploads/2019/12/Review-of-the-Prohibition-of-Incitement-to-Hatred-Act-1989.pdf</a>.

<sup>&</sup>lt;sup>7</sup> Pavee Point (2019), 'Racial Discrimination against Irish Travellers and Roma. Alternative Report A Response to Ireland's Combined Fifth to Ninth Periodic Reports to the UN Committee on the Elimination of All Forms of Racial Discrimination', November 2019, available at: <u>https://www.paveepoint.ie/wp-content/uploads/2019/11/Pavee-Point-Alternative-Report-to-CERD-Committee-01112019.pdf</u>; Committee on the Elimination of Racial Discrimination (2019), Advance Unedited Version: Concluding observations on the combined fifth to ninth reports of Ireland, 12 December 2019, paras. 19-22, available at: <u>https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/IRL/INT\_CERD\_COC\_IRL\_40806\_E.pdf</u>.

<sup>&</sup>lt;sup>8</sup> Schweppe J. and Haynes A. (2016), 'Monitoring Hate Crime in Ireland: Towards a Uniform Reporting Mechanism?' *Hate and Hostility Research Group – University of Limerick*, p. 17, available at: <u>https://ulir.ul.ie/handle/10344/5905</u>.

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	. The lack of trust in the Gardaí stems from the racism experienced by both communities in wider society and at legal and policy level. Mincéirí and Roma communities face the risk of bias-motivated victimization, which is linked to their ethnic and nomadic status. In addition, the role of the Gardaí in evictions places them within a settled system that has discriminated and persecuted both communities in Ireland. <sup>9</sup>
	Another main barrier for Mincéir and Roma communities is the lack of culturally appropriate reporting mechanisms. Literacy, language and digital access are significant barriers, and the absence of support which addresses material and cultural obstacles to reporting racist incidents are critical. <sup>10</sup> In their submission to the Oireachtas Committee, Eilis Barry from the Free Legal Aid Centres stated '[] we were very struck by the level and extent of unmet legal need that Travellers experience, particularly in housing, standards of accommodation, evictions and discrimination in access to good and services, including licensed premises. We believe access to justice is essential to addressing the unmet legal need and is integral and essential for social inclusion'. <sup>11</sup>

<sup>&</sup>lt;sup>9</sup> Joyce S., Haynes A. and Kennedy M. (2017), 'Travellers and Roma in Ireland: Understanding Hate Crime Data through the Lens of Structural Inequality' in Haynes A., Schweppe J. and Taylor S. (eds) *Critical Perspectives on Hate Crime Contributions from the Island of Ireland*, London, Palgrave Macmillan. IHREC (2019), 'Review of the Prohibition of Incitement to Hatred Act 1989 - Submission to the Department of Justice and Equality public consultation', available at: www.ihrec.ie/app/uploads/2019/12/Review-of-the-Prohibition-of-Incitement-to-Hatred-Act-1989.pdf.

<sup>&</sup>lt;sup>10</sup> Joyce S., Haynes A. and Kennedy M. (2017), 'Travellers and Roma in Ireland: Understanding Hate Crime Data through the Lens of Structural Inequality' in Haynes A., Schweppe J. and Taylor S. (eds) *Critical Perspectives on Hate Crime Contributions from the Island of Ireland*, London, Palgrave Macmillan.

<sup>&</sup>lt;sup>11</sup> Houses of Oireachtas (2020), 'Seanad Public Consultation Committee Report on Travellers Towards a More Equitable Ireland Post-Recognition', January 2020, available at: <u>https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/seanad\_public\_consultation\_committee/reports/2020/2020-01-23\_report-on-travellers-towards-a-more-equitable-ireland-post-recognition\_en.pdf</u>.

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2	Is there legislation (beyond generic legislation on discrimination and/or hate speech/crime) <u>specifically aimed</u> at or used to protect Roma and Travellers against discrimination and/or hate speech/crime, including for example dedicated criminal law provisions, or special structures and procedures focusing on Roma and Travellers (e.g. a specialised structure to deal exclusively with Roma and Travellers' cases)? Please indicate such provisions, structures or procedures and clarify whether and which particular groups of Roma and Travellers are explicitly covered. Please provide links to legislation or other relevant sources. Indicative length: two short paragraphs	No	The Irish national crime computer database (PULSE) has historically provided for the recording of a racist motivation, however, there has been no possibility of disaggregation by ethnicity within this category until recently. In November 2015, possibly in response to recommendations made by the Garda Inspectorate, the Irish police service are understood to have introduced a number of additional bias motivation markers including for anti-Mincéir and anti-Roma hate crime. The impact of this change on official knowledge of anti- Mincéir and anti-Roma hate crime in Ireland is likely to be negligible however without accompanying supports to address under-reporting as well as under- recording'. <sup>12</sup> According to the IHREC, 'Ireland [is] falling down on obligations to tackle racial discrimination'. <sup>13</sup> As an independent body, whose mission is 'to protect and promote human rights and equality in Ireland and build a culture of respect for human rights, equality and intercultural understanding in the State', the IHREC has often acted as <i>amicus curiae</i> and assisted both Roma and Mincéir individuals in discrimination cases in the court system. <sup>14</sup> Most discrimination cases in Ireland are dealt with through the Workplace Relations Commission including discrimination against Roma and Mincéirí. The IHREC has supported cases before the Workplace Relations Commission.

<sup>&</sup>lt;sup>12</sup> Joyce S., Haynes A. and Kennedy M. (2017) 'Travellers and Roma in Ireland: Understanding Hate Crime Data through the Lens of Structural Inequality' in Haynes A., Schweppe J. and Taylor S. (eds) *Critical Perspectives on Hate Crime Contributions from the Island of Ireland*, London, Palgrave Macmillan, p. 332. Please see ENAR Ireland Submission to the Commission on the Future of Policing in Ireland (2018), 'Submission to the Commission on the Future of Policing in Ireland', available at: <a href="https://inar.ie/wp-content/uploads/2019/11/ENAR-Ireland-Submission-to-CFPI-Feb-2018.pdf">https://inar.ie/wp-content/uploads/2019/11/ENAR-Ireland-Submission-to-CFPI-Feb-2018.pdf</a>.

<sup>&</sup>lt;sup>13</sup> Irish Human Rights and Equality Commission (2019) Ireland and the Convention on the Elimination of Racial Discrimination, Submission to the United Nations Committee the Elimination of Racial Discrimination Ireland's Combined 5th to 9th Report, on on https://www.ihrec.ie/app/uploads/2019/11/IHREC\_CERD\_UN\_Submission\_Oct\_19.pdf

<sup>&</sup>lt;sup>14</sup> IHREC (2018), 'Human Rights and Equality Update', available at: <u>https://www.ihrec.ie/newsletter/human-rights-equality-update-issue-1-2018/#anchor2</u>.

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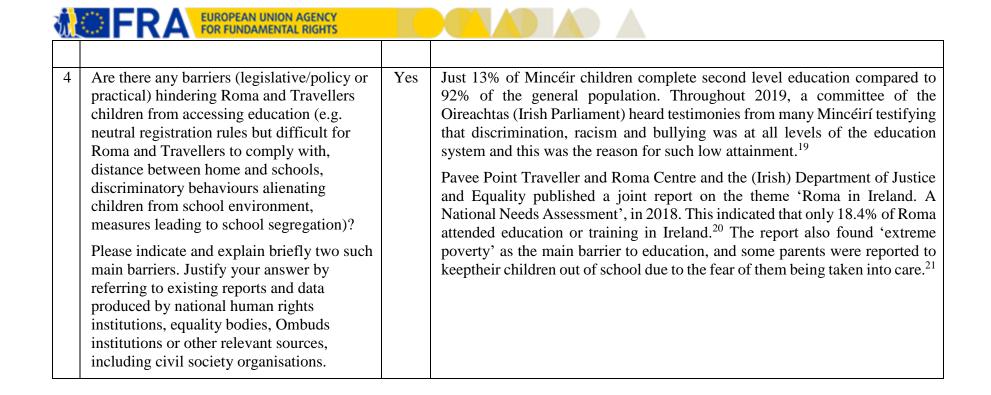
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3	Have there been any significant court decisions or cases dealt with by non- judicial bodies (e.g. equality bodies, Ombuds institutions, other human rights bodies) over the last five years treating discrimination and/or hate speech/crime against Roma and Travellers?	Yes	<ul> <li>The Irish Network Against Racism (INAR) records racist incidents, their most recent report in 2017 found 2 reported cases concerning the targeting of Roma and 15 targeting Mincéirí.<sup>15</sup> Therefore, there is little recorded data on anti-Mincéir or anti-Roma hate crime in Ireland.</li> <li>In December 2019, a hotel was ordered to pay 5,000 euro to a Mincéir family for cancelling a booking for a dinner to celebrate a family first Holy Communion. The case was brought before the Workplace Relations Commission, which found that the hotel had been discriminatory because of their ethnic status.<sup>16</sup></li> <li>In December 2019, the owner of a licenses premises was ordered to pay 33,000 euro to a Mincéir family who were denied entry to the establishment</li> </ul>
	against Roma and Travellers? Please mention no more than three such cases. Give a short description of each case and its outcome.		33,000 euro to a Mincéir family who were denied entry to the establishment 'because of their ethnicity and a deliberate policy to exclude Travellers'. <sup>17</sup> In its annual report for 2018 (issued October 2019), FLAC (Free Legal Advice Centre) reported that they supported a 'Roma woman who was refused a job
	Please provide links to the decisions and/or other useful sources of information about them, where available. Indicative length: three short paragraphs		in a hotel because she was wearing a traditional Roma skirt. She received compensation in a settlement of an employment discrimination claim'. <sup>18</sup>

<sup>&</sup>lt;sup>15</sup> Michael L. (2017), Reports of racism in Ireland. 17<sup>th</sup> +18th quarterly reports of iReport.ie', July–December 2017, available at: <u>https://inar.ie/wp-content/uploads/2019/10/iReport 1718 Final.pdf</u>.

<sup>&</sup>lt;sup>16</sup> Murray S. (2019), 'Hotel ordered to pay €5k over cancelling Holy Communion booking for members of Traveller family', *thejournal.ie*, 18 December 2019, available at: <u>https://www.thejournal.ie/hotel-travellers-wrc-4939504-Dec2019/.</u>

<sup>&</sup>lt;sup>17</sup> Managh R. (2019), 'It should never have happened': Traveller family who were denied entry to pub awarded €33,000', *thejournal.ie*, 19 December 2019, available at: <u>https://www.thejournal.ie/oconnor-family-defamation-orchard-inn-4942162-Dec2019/.</u>

<sup>&</sup>lt;sup>18</sup> Free Legal Advice Centre (2019) 'FLAC Annual Report 2018', Dublin, available at: <u>https://www.flac.ie/assets/files/pdf/flac\_annual\_report\_2018\_final.pdf?issuusl=ignore.</u>



<sup>&</sup>lt;sup>19</sup> O Kelly E. (2019), 'Groups call for initiatives for Traveller children in education', *RTÉ news*, 26 March 2019, available at: <u>https://www.rte.ie/news/ireland/2019/0326/1038788-traveller-address-to-committee/;</u> Ireland, Houses of Oireachtas (2019), 'Videos, Committee on Key Issues affecting the Traveller Community', available at: <u>https://www.oireachtas.ie/en/committees/32/committee-on-key-issues-affecting-the-traveller-community/videos/;</u> Houses of Oireachtas (2020), 'Seanad Public Consultation Committee Report on Travellers Towards a More Equitable Ireland Post-Recognition', January 2020, available at: <u>https://data.oireachtas.ie/en/committee/dail/32/seanad\_public\_consultation\_committee/reports/2020/2020-01-23\_report-on-travellers-towards-a-more-equitable-ireland-post-recognition\_en.pdf</u>.

<sup>&</sup>lt;sup>20</sup> Pavee Point Traveller and Roma Centre & Department of Justice and Equality (2018) 'Roma in Ireland. A National Needs Assessment', Dublin, available at: https://www.paveepoint.ie/wp-content/uploads/2015/04/RNA-PDF.pdf.

<sup>&</sup>lt;sup>21</sup> Holland K. (2018), 'Roma children malnourished due to "extreme" poverty, report says', *The Irish Times*, 28 January 2018, available at: https://www.irishtimes.com/news/social-affairs/roma-children-malnourished-due-to-extreme-poverty-report-says-1.3359153.

## EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS Please provide links to the reports/sources that you have used. Indicative length: two short paragraphs Are there any specific regulatory or policy No a) measure(s) having a positive impact. 5 measures over the last five years affecting - The Irish Human Rights and Equality Commission Act 2014 imposes, access to housing for Roma and Travellers for public bodies, the duty to perform its functions, having 'regard to the (e.g. legislation/policy measures on social need to [...] (a) eliminate discrimination [and] (b) promote equality of housing or halting sites for Roma and opportunity and treatment of [...] the persons to whom it provides Travellers, measures affecting their access services'.<sup>22</sup> to water, electricity or communication - In June 2019, the IHREC launched a national review into traveller services)? accommodation provision by all local authorities in the country.<sup>23</sup> Please mention the two most important measures or changes in legislation (on federal, regional or municipal level) b) measure(s) having a negative impact classifying them as having a positive or Mincéir accommodation policy has not substantially changed since the negative impact You can provide one Traveller Accommodation Act (1998):<sup>24</sup> No Legislation on Traveller example for each category. Or, as accommodation has been brought forward since this act entering into force. appropriate, two examples of positive or Nonetheless, it is worth mentioning that an independent Expert Review Group two examples of negative impact. Please on Traveller Accommodation, in 2019, concluded 'that the arrangements give a short description of each measure established by the 1998 Act have significant strengths and have enabled the and provide relevant links. delivery of significant amounts of accommodation for Travellers, but they

<sup>&</sup>lt;sup>22</sup> Ireland, Houses of Oireachtas, Irish Human Rights and Equality Commission Act 2014, no. 25/2014, S. 42(1), available at: <u>http://www.irishstatutebook.ie/eli/2014/act/25/enacted/en/print</u>.

<sup>&</sup>lt;sup>23</sup> IHREC (2019), 'Human Rights and Equality Commission Launches National Review into Council Traveller Accommodation Provision', press release, 28 June 2019, available at: <u>https://www.ihrec.ie/human-rights-and-equality-commission-launches-national-review-into-council-traveller-accommodation-provision/</u>.

<sup>&</sup>lt;sup>24</sup> Ireland, Government of Ireland (1998), Housing (Traveller Accommodation) Act, available at: http://www.irishstatutebook.ie/eli/1998/act/33/enacted/en/pdf

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Indicative length: two short paragraphs	have failed to meet the full scale of accommodation need among this community'. <sup>25</sup> Even though the Traveller Accommodation Act (1998) was an evolution of the policy by the 1963 Commission on 'Itinerancy' <sup>26</sup> – according to which assimilation sought to absorb the traveller community – it is to date the most significant legislation in relation to providing accommodation to the Mincéir community. The realisation of its objectives is incomplete due to discriminatory attitudes by both local authorities and the settled community: Mincéir families moving into an area often meet a hostile objection to them. <sup>27</sup> According to 'Discrimination and Inequality in Housing in Ireland', Mincéirs make up 9% of the homeless population although they make up just 1% of the overall population. Mincéirí also experience the highest levels of discrimination in access to housing. <sup>28</sup> There is no specific accommodation policy for Roma in Ireland. Extreme poverty forces Roma families live in places that have no 'kitchens or bathrooms and are damp with rats and sewerage problems'). <sup>29</sup> Furthermore, diffculties in meeting 'habitual residence criteria' negateivley affect Roma families' right to access social protection mechanisms.

<sup>&</sup>lt;sup>25</sup> Expert Review Group on Traveller Accommodation (2019), 'Traveller Accommodation Expert Review', available at: <u>https://www.housing.gov.ie/sites/default/files/publications/files/2019 july expert review group traveller accommodation-final reportrt 00.pdf</u>.

<sup>&</sup>lt;sup>26</sup> Commission on Itinerancy (1963), 'Report of the Commission on Itinerancy', Dublin: The Stationery Office, available at: 1963<u>https://www.lenus.ie/bitstream/handle/10147/324231/ReportoftheCommissiononItinerancyAugust1963.pdf?sequence=1&isAllowed=y.</u>

<sup>&</sup>lt;sup>27</sup> Holland K. (2019), 'Settled residents should lose right to object to Traveller accommodation, experts say', *The Irish Times*, 24 July 2019, available at: https://www.irishtimes.com/news/social-affairs/settled-residents-should-lose-right-to-object-to-traveller-accommodation-experts-say-1.3965165.

<sup>&</sup>lt;sup>28</sup> Economic and Social Research Institute and the Irish Human Rights and Equality Commission (2018), 'Discrimination and Inequality in Housing in Ireland', Dublin, available at: <u>https://www.ihrec.ie/app/uploads/2018/06/Discrimination-and-Inequality-in-Housing-in-Ireland.pdf.</u>

<sup>&</sup>lt;sup>29</sup> Pavee Point Traveller and Roma Centre & Department of Justice and Equality (2018) 'Roma in Ireland. A National Needs Assessment', Dublin, available at: https://www.paveepoint.ie/wp-content/uploads/2015/04/RNA-PDF.pdf.

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	<ul> <li>The National Traveller and Roma Inclusion Strategy 2017 – 2021, was developed under the EU Framework for the Implementation of National Roma integration Strategies up to 2020. It is a cross-Departmental initiative to improve the lives of the Mincéir and Roma communities in Ireland. To date the strategy has failed to address many key issues affecting Mincéir and Roma people including housing needs.<sup>30</sup> Implementation of recommendations within the strategy have been slow and in some cases local opposition to housing Mincéir or Roma families in an area puts a halt on providing Mincéir and Roma communities with adequate homes. Consequently, many Mincéir and Roma people are living in substandard conditions with little or no access to services such as water, sanitation, electricity or heat.<sup>31</sup></li> <li>In 2018, the Traveller Accommodation Expert Group was established by Minister Damien English, to review the Housing (Traveller Accommodation) Act 1998 and other legislation impacting on the provision and delivery of</li> </ul>
	Act 1998 and other legislation impacting on the provision and delivery of accommodation for Travellers. The Expert Group concluded that there were significant gaps in national policy and local implantation of policy. The key issues – highlighted in this review process – concerned 'delivery reflecting need, planning, capacity and resources, and governance'. <sup>32</sup>

<sup>&</sup>lt;sup>30</sup> Holland K. (2017) 'New strategy fails to address key education and housing issues for Travellers', 23 May 2017, available at: <u>https://www.irishtimes.com/news/social-affairs/new-strategy-fails-to-address-key-education-and-housing-issues-for-travellers-1.3091232</u>.

<sup>&</sup>lt;sup>31</sup> Ireland, Department of Justice and Equality (2017) 'National Traveller and Roma Inclusion Strategy 2017 – 2021', available at: <u>http://www.justice.ie/en/JELR/National%20Traveller%20and%20Roma%20Inclusion%20Strategy,%202017-</u>

<sup>2021.</sup>pdf/Files/National%20Traveller%20and%20Roma%20Inclusion%20Strategy,%202017-2021.pdf .

<sup>&</sup>lt;sup>32</sup> Ireland, Minister of the Department of Housing, Planning and Local Government (2019), 'Traveller Accommodation Expert Review', available at: https://www.housing.gov.ie/sites/default/files/publications/files/2019\_july\_expert\_review\_group\_traveller\_accommodation-final\_reportrt\_00.pdf.

