

Franch National contribution to the Fundamental Rights Report 2023

Ireland

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Policy and legal highlights 2022 - IRELAND

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| Issues in the fundamental rights institutional landscape | Child Guarantee National Action Plan. The plan addresses all heads of the EU Child Guarantee and commits to undertaking research to gather baseline information and pilot studies to trial initiatives aimed at improving the lives of children in Ireland. The strategy aims to adopt a collaborative approach to address free access to early childhood education and care, education, and healthcare. |
| EU Charter of Fundamental Rights | Legal aid for survivors of Mother and Baby Institutions. The Mother and Baby Institutions Payment Scheme Bill 2022 aims to redress the survivors of 14 of Ireland's Mother and Baby Institutions. Based on Article 47 of the EU Charter, in addition to money, parliamentarians recommended that survivors should be entitled to fully-subsidised legal aid to enable them to seek independent legal advice at all stages. |
| Equality and non-discrimination | Call to redress survivors of racial discrimination. UN-Appointed independent experts called on Irish authorities to provide adequate redress for victims of racial discrimination and system racism in Irish childcare institutions between the 1940s and 1990s. Children were exposed to heightened risk of sexual, physical, and verbal abuse. Children of African-Irish descent were particularly targeted. |
| Racism, xenophobia & Roma Equality and Inclusion | National Traveller Health Action Plan 2022-2027. The plan responds to the severe health inequalities experienced by Travellers, arising from social determinants of health, and their obstacles in accessing healthcare services. The plan aims to provide a solid foundation upon which to service the additional health needs of the community. |
| Asylum & migration | Transposition of Directive 2002/90/EC. Ireland transposed the Directive by way of the Criminal Justice (Smuggling of Persons) Act 2021 on 15 December 2021. The Act provides defences to offences categorised in the Act: the provision of assistance to a person seeking international protection, and the provision of humanitarian assistance. |
| Data protection and digital society | Communications (Retention of Data) (Amendment) Act 2022. This Act was prompted by a CJEU decision which confirmed that retention and access provisions of a previous Act were contrary to EU law. The passage of this law was controversial because there were no consultations, and parliamentarians were not provided with the text in advance. |
| Rights of the child | Evaluation of the implementation of the Anti-Trafficking Directive (2011/36). The Irish Human Rights and Equality Commission, National Rapporteur, published its Monitoring Report on the implementation of the Directive. It highlighted delays in the establishment of a Referral Mechanism, inadequate identification, classification and data collection of child trafficking cases, and lack of legal assistance for child victims. |
| Access to justice, | Increased funding to support victims of crime. The government increased funding for CSOs providing support for victims of crime. |

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| including victims of crime | Funding went up from €3.8 Million in 2021 to €4.9 Million in 2022. The Minister for Justice announced that €4.6 Million had been allocated to 60 organisations providing support services and information, court accompaniment, and expanding services into other geographic areas. |
| Convention on the Rights of Persons with Disability | Review of Comprehensive Employment Strategy 2022. The National Disability Authority's review of the Strategy identified key actions, including the development of a return-to-work approach for people with (acquired) disabilities, ensuring employer engagement, and supporting transition planning across the strategy, addressing the lack of career guidance for learners with disabilities. |

Equality and non-discrimination

Legal and policy developments or measures relevant to fostering equality and combating discrimination focussing on LGBTIQ people and combating discrimination on the grounds of socio-economic status, health status and physical appearance

In 2022, the Irish Human Rights and Equality Commission published two new code of practices for employers, one on equal pay, and one on sexual harassment and harassment on other prohibited grounds of discrimination.¹ While these codes do not produce any new legal obligations, they were approved by the Minister for Children, Equality, Disability, Integration and Youth and appear as a Statutory Instruments in the Irish statute book.² This means that arguments based on the codes will be admissible in dispute resolution or court proceedings.

The codes cover discrimination with regard to pay, or harassment on the basis of Ireland's nine prohibited grounds, as laid out in the Employment Equality Acts 1998 to 2021.³ These grounds are: gender, civil status, family status, sexual orientation, religion, age, disability, race/colour/nationality or ethnic or national origins, and membership of the Traveller community. However, the Codes both provide for an 'expansive definition' which says that the prohibition on discrimination extends to, among other things, 'where a ground once/used to exist but no longer exists (for example a past period of illness) [and] where a ground may exist in the future (for example, family status or pregnancy)'.⁴

The Code on Equal Pay provides for both direct discrimination claims (where a person establishes that they are being paid less for equal work than a comparator) and indirect discrimination (using an example from the UK of speech therapists

¹ Irish Human Rights and Equality Commission (2022), [Code of Practice on Equal Pay](#), Dublin, March 2022; Irish Human Rights and Equality Commission (2022), [Code of Practice on Sexual Harassment and Harassment at Work](#), Dublin, March 2022

² Irish Human Rights and Equality Commission Act 2014 (Code of Practice on Sexual Harassment and Harassment at Work) Order 2022, [S. I. 106/2022](#), 11 March 2022; and Irish Human Rights and Equality Commission Act 2014 (Code of Practice on Equal Pay) Order 2022, [S. I. 107/2022](#), 11 March 2022.

³ Ireland, Houses of the Oireachtas, [Ireland Employment Equality Act 1998](#) (Act 21 of 1998), Updated to 31 May 2022.

⁴ Irish Human Rights and Equality Commission (2022), [Code of Practice on Equal Pay](#), Dublin, March 2022, section 27.

(predominantly women) being paid less than clinical psychologists and pharmacists (predominantly men).⁵

As mentioned in last year's report, the Irish government announced a review of Ireland's equality legislation in June 2021,⁶ and a public consultation ended on 1 December 2021. A government report on these submissions is only expected in 2023, and legislative proposals arising from the review will also be brought forward in 2023.⁷ One of the specific points on which the views of the public were sought was whether new grounds, such as the socio-economic ground, should be added to the grounds for discrimination, and whether the legislation adequately addresses intersectionality.

There is little evidence of specific implementation of the EU LBGTIQ equality strategy. However, Ireland has both a LGBTI+ National Youth Strategy (2018-2020)⁸ and a National LGBTI+ Inclusion Strategy (2019-2021),⁹ which between them cover many of the actions set out in the EU strategy. The LGBTI+ Youth Strategy was extended to cover 2021 in light of the impact of Covid on planned actions, and the Inclusion Strategy was extended to the end of 2022. A review of the youth strategy is underway, and the subsequent report will be available in due course.¹⁰ In July, a response to a parliamentary question gave more detail about the current status of the National LGBTI+ Inclusion strategy. Of the 108 strategies, the government said that the relevant lead departments had assessed 17 as complete and work ongoing on the remainder.¹¹ The government noted that the overall implementation of the strategy was severely impacted by the COVID-19 pandemic. A follow up question provided more detail on the 17 actions assessed as complete.¹²

⁵ Irish Human Rights and Equality Commission (2022), [Code of Practice on Equal Pay](#), Dublin, March 2022, section 58.

⁶ Ireland, Department of Children, Equality, Disability, Integration and Youth (2021), [Consultation on the Review of the Equality Acts](#), 14 July 2021.

⁷ Ireland, Department of Children, Equality, Disability, Integration and Youth (2022), [Written answer to question on the review of the Equality legislation](#), 13 October 2022.

⁸ Ireland, Department of Children and Youth Affairs (2018), [LGBTI+ National Youth Strategy 2018-2020: LGBTI+ young people: visible, valued and included](#), Dublin, 29 June 2018.

⁹ Ireland, Department of Children and Youth Affairs (2019), [National LGBTI+ Inclusion Strategy, 2019-2021](#), Dublin.

¹⁰ Ireland, Minister for Children, Equality, Disability, Integration and Youth (2022), [Answer to Parliamentary Question 140](#), 3 March 2022.

¹¹ Ireland, Minister for Children, Equality, Disability, Integration and Youth (2022), [Answer to Parliamentary Question 156](#), 6 July 2022.

¹² Ireland, Minister for Children, Equality, Disability, Integration and Youth (2022), [Answer to Parliamentary Question 592](#), 14 July 2022.

Findings and methodology of research, studies, or surveys on experiences of discrimination against LGBTIQ people and on the grounds of socio-economic status, health status and physical appearance

The Irish government published a Statistical Spotlight report on the experiences and perceptions of discrimination in Ireland in March 2022,¹³ to inform the review of equality legislation mentioned above, and various other Strategies for particular groups.

This Statistical Spotlight collates available data on discrimination, and perceptions and attitudes towards discrimination, in Ireland. The data is drawn from various statistical surveys, including the Central Statistics Office (CSO) module on equality from the General Household Survey and FRA's Survey of Roma and Travellers in Six Countries. Summary data is also presented on cases referred to the Workplace Relations Commission.

The Spotlight states that a third of adults identifying as LGBTI+ reported that they had experienced discrimination (33%), more than double the level among non-LGBTI+ persons (17%). This was drawn from the equality module of the CSO General Household Survey, with a representative sample size of 3,971 in 2019.¹⁴

The Spotlight also reports on the Irish Health Behaviours in School-Aged Children study conducted in 2018, which included data on experiences of being treated unfairly reported by children aged 12-14 and 15-17 years old. Children who reported being treated unfairly were asked if they thought this was due to age, gender, race, disability, place of birth, sexual orientation, religion or membership of a Traveller community. 11% reported having ever experienced discrimination on the basis of 'sexual orientation'. A data matching exercise was then carried out by researchers at the University of Galway in 2021, which included matching by social class. This found that similar levels of age, gender, race, religion, sexual orientation and disability discrimination were reported by children of different social class backgrounds. Children from lower social class groups were more likely

¹³ Ireland, Minister for Children, Equality, Disability, Integration and Youth (2022), [Statistical Spotlight #7: Experiences and Perceptions of Discrimination in Ireland](#), Dublin, March 2022.

¹⁴ Ireland, Minister for Children, Equality, Disability, Integration and Youth (2022), [Statistical Spotlight #7: Experiences and Perceptions of Discrimination in Ireland](#), Dublin, March 2022, p. 7.

to report discrimination on the basis of place of birth, but the effect size was negligible.¹⁵

Also in 2022, LGBT Ireland and the Irish Refugee Council launched a research report on LGBTI+ people in the international protection process in Ireland.¹⁶ This qualitative research project drew on interviews with ten international protection applications who identified as LGBTI+ and claiming asylum on the basis of sexual orientation or gender identity. All participants described the internalised homophobia and transphobia they grew up with, and many noted this had a negative effect on their ability to talk openly about the injustices they had experienced. They felt that most interviewers in the international protection system would not be aware of this internalised homophobia, and often did not fully comprehend the levels of homophobia in the cultural contexts from which the person was coming. For example, one lesbian participant recounted being questioned aggressively about a past marriage to a man, but that in her cultural context, to not marry by a certain age would be to draw dangerous attention to herself.¹⁷ One of the recommendations of the report is to deliver training to all interviewers on understanding LGBTI+ issues in specific cultural and religious contexts, and in decision-making in the context of LGBTI+ cases.¹⁸

¹⁵ Ireland, Minister for Children, Equality, Disability, Integration and Youth (2022), [Statistical Spotlight #7: Experiences and Perceptions of Discrimination in Ireland](#), Dublin, March 2022, p. 25.

¹⁶ LGBT Ireland and the Irish Refugee Council (2022), [Believe me or not, but I am who I am: Experiences of LGBTI+ asylum seekers proving credibility in the Irish international protection process](#), Dublin.

¹⁷ LGBT Ireland and the Irish Refugee Council (2022), [Believe me or not, but I am who I am: Experiences of LGBTI+ asylum seekers proving credibility in the Irish international protection process](#), Dublin, p30.

¹⁸ The data collection for this section was completed via the following methods: (a) Search of the available academic literature (using Trinity College Dublin database), (b) Correspondence with key groups active in this area (LGBT Ireland, Irish Refugee Council, Add the 10th campaign, the Workplace Relations Commission and the Irish Human Rights and Equality Commission), and (c) Online search for relevant research in 2022.

Racism, xenophobia and related intolerance

Data, research findings, studies, or surveys on experiences of ethnic discrimination, racism and hate crime

The Irish Network Against Racism (INAR) published data on reports of racist hostility and discrimination.¹⁹ The iReport.ie racist incident reporting system collected data on 404 incidents since in 2021 (compared to 700 in 2020). Overall report numbers were impacted by a drop in reporting of online and other forms of hate speech from 2020. The previous year saw a significant increase in online hate reporting, so the 2021 decrease is not a particular surprise. Key points include:

- 154 Criminal incidents, 40 racist assaults and 113 reports concerning hate speech.
- Racist language was used in 75 per cent of crimes, and in 41 per cent of other incidents.
- There were 113 cases of racist hate speech reported in total in 2021. The groups most targeted by hate speech in the 2021 reports to iReport.ie were Chinese, South Asian and Other Asian, continuing a pattern change from 2020 prompted by Covid-related abuse.
- There were fewer incidents of serious threat than in previous years, but a much higher rate of public order offences which involved aggressive and abusive behaviour and usually racist language.
- Repeat harassment was reported in 39 cases in 2021, including at home, in schools, workplaces, and public settings.
- Of the 90 incidents of illegal discrimination reported to iReport.ie, 49 (54%) were not reported to anyone else. Seven cases (8%) were reported to An Garda Síochána, but 2 of these also included criminal offences. 35 (39%) were reported to other organisations.
- 36 cases involved restricted access to goods or services because of illegal racial discrimination
- There were 10 complaints specifically about refused or poor service by members of An Garda Síochána.
- Racial profiling [by Gardaí] continues, and there is no legislation to govern this practice. Of those that reported a crime or racist incident (excluding illegal discrimination) to An Garda Síochána, none appeared satisfied with the response.
- Poor responses by Gardaí included refusing to record crimes, failing to attend the scene and collect evidence, failing to take statements from

¹⁹ Michael, L., Omid, N., Reynolds, D. (2021), [Reports of racism in Ireland](#), Dublin.

victims and investigate crimes, and failing to communicate updates to victims. There were also concerns about violence by Gardaí.

- Institutional racism is evident in the policies and processes of a range of public sector organisations reporting in this period. This despite the Public Sector Equality Duty created by the Irish Human Rights and Equality Act 2014,²⁰ which obliges public bodies and publicly funded organisations to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act. In a significant number of cases in 2021 and previous years, staff have openly and illegally discriminated against people on the basis of their ethnicity or nationality.

The Irish Penal Reform Trust²¹ launched an exploratory research study on the rights and experiences of foreign national and minority ethnic groups in the Irish penal system through analysis, along with interviews from professional stakeholders. It was found that foreign nationals may receive longer sentences than Irish nationals for controlled drug offences and sexual offences. There were significant challenges faced by foreign nationals and minority ethnic people in prison concerning access to services, respect for different religious backgrounds, as well as language and communication barriers. Ethnic minority groups also faced greater 'aggression and name calling' from staff. An interviewee described "racially abusive behaviour by individual prison officers in terms of unnecessary aggression, rudeness... name calling". Experiences of racism at different stages of the criminal justice process had the effect of limiting trust with any part of the penal system. Notable recommendations included incorporation of UN CERD into domestic law, data recording and ethnic equality monitoring, and diversifying recruitment of Irish Prison Service staff.

The Workplace Relations Commission (WRC) 2021 Annual Report²² notes that referrals²³ under the Race ground recorded were the second highest referral under the statutory grounds provided, with 85 referrals of referrals under both the Equal Status Acts which covers discrimination in the provision of goods or services and the Employment Equality Acts which covers discrimination in the workplace. A 12% increase from 2020.

The Higher Education Authority (HEA) published the results of the first Race Equality Survey.²⁴ 3,323 staff in Irish Higher Education Institutions responded to

²⁰ Ireland, Houses of the Oireachtas, [Irish Human Rights and Equality Commission Act 2014](#) (Act 25 of 2014).

²¹ Irish Penal Reform Trust (2022) ["Sometimes I'm missing the words": The rights, needs and experiences of foreign national and minority ethnic groups in the Irish penal system](#), Dublin, April 2022.

²² Ireland, Workplace Relations Commission (2022), [Annual Report 2021](#), Dublin.

²³ Referrals to the Director General of the WRC for adjudication; the legislative basis for the referral of complaints and disputes arises from several national laws, including the [Workplace Relations Act 2015](#).

²⁴ Kempny, M. and Michael, L. (2021), [Race Equality in the Higher Education Sector](#). Dublin, Higher Education Authority.

the survey. When asked if race inequality exists in Higher Education, 48% of all staff agreed. Stronger agreement was higher amongst staff from minority ethnic groups (36%) compared to White Irish and White Other (18% and 24% respectively). It was found that often discrimination, abuse, and harassment come from staff in leadership roles. There is also evidence in this survey that racist incidents on campus are under-reported by both students and staff. Ireland has had no strategy for race equality in higher or further education to date. The report was followed by the launch of an Implementation Plan in September 2022.

The Minister for Children, Equality, Disability, Integration and Youth, published a report on discrimination in Ireland,²⁵ that compiles data from a number of sources to provide data on the experience of discrimination of three groups, over 18s, under 18s, Roma and Irish Travellers. Among the key findings, 17% of persons aged 18 and over living in Ireland in 2019 reported having experienced some form of discrimination on different grounds (e.g., race, gender, disability, etc.) in the previous two years, compared to 12% in 2014. Those who had a non-white ethnicity were most likely to experience some form of discrimination (33%). Overall, 90% of Travellers reported that they had 'ever' experienced discrimination, with 77% reporting that they had experienced discrimination 'in the past year', 72% experienced discrimination when trying to rent or buy houses in the previous five years.

The Irish Council for International Students produced a report on the lived experiences of international students.²⁶ More than 760 international students from 75 countries participated in online surveys and two focus groups. Some 40% of respondents said that they have either witnessed or been victims of racism in different locations in Ireland, with only 5% reporting the incident.

The Economic and Social Research Institute produced a report evidencing that migrant women face a double disadvantage while working and living in Ireland.²⁷ They suffer a higher frequency of domestic and gender-based violence, perinatal deaths than other groups, are more at risk of trafficking, and more likely to live in overcrowded conditions. Women living in Direct Provision accommodation are particularly vulnerable. According to the report, "the integration of non-EU migrant women remains a challenge in Ireland".²⁸

UN-appointed independent human rights experts published a statement calling on Irish authorities to provide adequate redress for victims of racial discrimination

²⁵ Ireland, Department of Children, Equality, Disability, Integration and Youth (2022), [Minister O'Gorman publishes discrimination report to inform equality policy](#), Press release, 31 March 2022.

²⁶ Nott, W. (2021), '[40% of international students in Ireland experience racism](#)', The PIE News, 9 December 2021.

²⁷ Stapleton, A., Polakowski, M. and Quinn, E. (2022), [The Integration of Non-EU Migrant Women in Ireland](#), Dublin, Economic and Social Research Institute.

²⁸ Stapleton, A., Polakowski, M. and Quinn, E. (2022), [The Integration of Non-EU Migrant Women in Ireland](#), Dublin, Economic and Social Research Institute, p. 10.

and system racism in Irish childcare institutions between the 1940s and 1990s.²⁹ Children were exposed to heightened risk of corporal punishment, sexual, physical, and verbal abuse, with lifelong consequences. Children of African and Irish descent were in particular “subjected to differential treatment because of their race, colour and/or descent, leading to further violations of their human rights”.

In its report to the UN Human Rights Committee, the Irish Human Rights and Equality Commission called for the defining and prohibition of racial profiling by An Garda Síochána.³⁰ The Commission recommended that the State prioritises legislation through amendments to the Garda Síochána (Powers) Bill to define and prohibit racial profiling; and to include an express requirement to record the racial and ethnic origin of a person being stopped and searched, and the location at which the power is exercised.

Legal and policy developments or measures relating to the application of the Framework Decision on Racism and Xenophobia and the Racial Equality Directive

The Racial Equality Directive (2000/43/EC) outlaws discrimination on the basis of a person’s racial or ethnic origin in the areas of employment, education, social security, health care and access to goods and services. Discrimination and harassment on the ground of race are prohibited by two pieces of legislation in Ireland. The first being the Employment Equality Acts 1998 – 2015 (the EE Acts), which covers discrimination in the workplace. The second is the Equal Status Acts 2000-2018 (the ES Acts), which covers discrimination in the provision of goods or services. The definition of the “ground of race” in Irish legislation includes colour, nationality or ethnic or national origins.

Review of Equality Legislation

The Department of Children, Equality, Disability, Integration and Youth launched a consultation seeking the public’s views on a review of the Equality Acts (Equal Status Acts 2000-2018 and the Employment Equality Acts 1998-2015). The review is to examine the functioning of the Acts and their effectiveness in combatting discrimination and promoting equality. It will also include a review of current definitions. The review is to examine the operation of the Acts from the perspective

²⁹ Namakula, C., et al. (2022), [Ireland: UN experts call for adequate redress for systemic racism and racial discrimination in childcare institutions](#), Statement, 23 September 2022.

³⁰ Irish Human Rights and Equality Commission (2022), [State Must Ensure that An Garda Síochána Define and Prohibit Racial Profiling](#), Press release, Dublin, 13 June 2022.

of the person taking a claim under its redress mechanisms. It will examine the degree to which those experiencing discrimination are aware of the legislation and whether there are practical or other obstacles which preclude or deter them from taking an action. The review was due in early 2022 to inform legislative change.³¹ The Irish Human Rights and Equality Commission has established an Advisory Group of experts to inform the process although it has no formal role in the review. There has been no outcome from the review to date.

Anti-Racism Committee

The government established an Anti-Racism Committee at the end of 2019, and this met throughout 2020. The Terms of Reference of the Anti- Racism Committee included review of current evidence and outcomes, including identifying data gaps, in relation to racial discrimination in Ireland; to examine and benchmark against international best practice in combating racism; to hold stakeholder dialogue and consultation ; to develop a blueprint for a draft national strategy against racism; and to provide a draft anti-racism strategy. The interim report was published,³² but the final report has not been.

National Action Plan Against Racism

Ireland's National Action Plan Against Racism was to be published in 2021 by the Department of Children, Equality, Disability, Integration and Youth but this target was not met, and it is still unpublished by December 2022. Ireland has been without a national plan since 2008.

Hate Crime Legislation

In April 2021, the Department of Justice, published the General Scheme of the Criminal Justice (Hate Crime) Bill 2021.³³ The Bill creates new, aggravated forms of certain existing criminal offences, where those offences are motivated by prejudice against a protected characteristic. Traveller ethnicity is recognised in the main definitions in the new law, on the same basis as other ethnicities. The Bill was revised to include the 'demonstration test'. and is scheduled for discussion at the Justice Committee for February 21, 2023.

The Minister for Justice Helen McEntee published the Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022, after securing Cabinet approval for the new legislation in October 2022. The Bill must now be passed by both Houses of Parliament (Dáil and Seanad) before it can be enacted and signed into

³¹ Ireland, Department of Children, Equality, Disability, Integration and Youth (2021), [Consultation on the Review of the Equality Acts](#), 14 July 2021.

³² Ireland, Department of Children, Equality, Disability, Integration and Youth (2021), [Anti-Racism Committee Interim Report](#), Dublin, 30 November 2020.

³³ Ireland, Department of Justice (2021), [General Scheme of the Criminal Justice \(Hate Crime\) Bill 2021](#), Dublin.

law by the President. The government is committed to ensuring that this happens before the end of 2022.³⁴

Creating the conditions for an equality data strategy in Ireland

Equality data is a public good, and as such is beyond the scope of any one organisation to develop and sustain. Collective effort and inter-institutional cooperation are required to realise this public good and deploy it to identify and prevent systemic discrimination. The national Equality Data Strategy Working Group reflects such an approach. It includes representation from public bodies, government departments, the Irish Human Rights and Equality Commission (IHREC), statistical organisations, research institutes, and civil society organisations. It is co-chaired by the Department of Children, Equality, Disability, Integration and Youth of Ireland and the Central Statistics Office. The working group meets regularly to draft the Strategy. The plan is to develop a draft equality data strategy in 2022 and send it to the government, with publication envisaged in 2023.³⁵

An EU Subgroup on Equality Data met in Ireland in October 2022 and presented key developments on the collection and use of equality data in Ireland, including the use of equality data in implementing and monitoring the Irish National Action Plan Against Racism, the National Traveller and Roma Inclusion Strategy (which has not been renewed), as well as the National LGBTI+ Inclusion Strategy and the National LGBTI+ Youth Strategy. The subgroup also discussed the draft guidance note on the collection and use of equality data for LGBTIQ equality developed by the European Union Fundamental Rights Agency.

ECRI's interim report on follow up of recommendations to Ireland

The European Commission Against Racism and Intolerance (ECRI) recommended the Irish authorities to step up their efforts to implement the recommendations set out in the Traveller Accommodation Expert Report of 2019 and the IHREC 2021 recommendations in this area. The recommendations have been issued in the framework of the new strategy pertaining to Traveller and Roma issues (which is being drafted), and of the Equality review exercise (expected to be completed in 2022). ECRI strongly recommended that new hate speech and hate crime legislation be enacted in consultation with relevant civil society actors. Hate based on the following grounds should be included: race, colour, ethnic/national origin, citizenship, language, religion, sexual orientation and gender identity. ECRI encouraged the Irish authorities to ensure that the provisions and definitions in the respective texts are fully consistent with each other in order to avoid any implementation gap in addressing severe forms of hate speech, both online and

³⁴ Ireland, Department of Justice (2022), '[New Bill to tackle hate crime and hate speech includes clear provision to protect freedom of expression](#)', Press release, 27 October 2022.

³⁵ Department of Children, Equality, Disability, Integration and Youth (2022), '[Minister O'Gorman announces the development of a National Equality Data Strategy](#)', Press release, 21 March 2022.

offline. According to ECRI, those recommendations have been only partially implemented.³⁶

³⁶ European Commission Against Racism and Intolerance (2022), [ECRI Conclusions on the Implementation of the recommendations in respect of Ireland, Subject to Interim Follow-up \(Adopted on 7 December 2021\)](#), Strasbourg, 3 March 2022.

Roma equality and inclusion

Policy developments in regards to the implementation of national action plans

| Development regarding the implementation of the action plans | |
|---|---|
| Has the Member State adopted one or several action plan(s) for the implementation of the strategy (separately from the strategic framework? If yes, please provide a hyperlink | No specific action plans have been adopted in 2022. |
| How were Roma and Traveller civil society organizations consulted for the development of the action plan (please check with the competent national authorities and the most significant Roma organizations)? | N/A |
| Was the Equality Body and the NHRI and the Ombuds institution in your country consulted in the development of the action plan (please check with the competent national authority, the Equality body, NHRI and Ombuds institution)? | N/A |
| Does the national strategic framework and the action plan foresee a regular monitoring and review? If yes, who will conduct this. | No The previous national strategic framework (National Traveller Roma Inclusion strategy 2017-2021) has ended and there is no new framework. |
| Implications of the war in Ukraine on the situation of Roma | |
| Have Roma from Ukraine entered your country? | No |
| If Roma from Ukraine entered your country how was this communicated in the media? | No |

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| Is there any evidence (articles, reports, analyses) of the impact of the economic implications of the war (inflation, food or energy prices etc.) on Roma? If yes, provide reference | No |
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Legal and policy developments or measures directly or indirectly addressing Roma/Travellers equality and inclusion

There are no relevant policy developments in Ireland concerning Roma/Traveller inclusion in 2022. The National Traveller and Roma Inclusion Strategy 2017-2021 (NTRIS),³⁷ launched by the time the State acknowledged Travellers as a minority ethnic group, became the government benchmark for addressing ten strategic themes, including accommodation, education, health, employment, cultural identity and racism, and discrimination of Travellers and Roma. NTRIS monitoring was led by the Department of Children, Equality, Disability, Integration and Youth. In 2021, out of the 149 actions included in the NTRIS, only 12 had been completed, 10 had yet to start and the rest were ongoing.³⁸ Travellers’ organisations have tirelessly demanded governmental action, but while awaiting responses, they have been proactive and engaged in their own review of the NTRIS. In May 2022 they published a report focusing on policy implementation concerning accommodation, health, and education; the findings showed significant and unacceptable gaps.³⁹ A governmental review of the NTRIS was still missing at the end of December 2022.

³⁷ Ireland, Department of Justice and Equality (2017), [National Traveller and Roma Inclusion Strategy 2017-2021](#), Dublin, March 2021.

³⁸ Irish Traveller Movement (2021), [Four Years on From State Acknowledgement of Traveller’s Ethnicity National Traveller Organisations call for Urgent Government Action to Address Traveller Equality](#), Press release, Dublin, March 2021.

³⁹ Mullen, R. and Crowley, N. (2022), [Implementation of Traveller Policy: Terrain for Imagination and Challenge](#), Dublin, Pavee Point.

In March 2022, the Joint Committee on Key Issues Affecting the Traveller Community issue a comprehensive report,⁴⁰ which raised many key issues and also made several important recommendations that will involve work across several government Departments. The chairperson of the Joint Committee acknowledges in the report's introduction that "[o]ver the years there have been numerous reports and studies produced which have highlighted the extreme difficulties and challenges faced by the Traveller community. Unfortunately, it is clear that these have not succeeded in improving conditions in Travellers' lives".⁴¹

Ireland's review within the Third Cycle of the Universal Periodic Review (2017-2022) was held on 10 November 2021, and the final outcome report of the review was adopted by the Human Rights Council at its 49th session (28 February - 1 April 2022).⁴² The Irish state accepted 221 of the Human Rights Committee's 260 recommendations⁴³ which address legal and policy-related issues concerning racism, discrimination, access to quality services (including health, education, and accommodation), access to justice, etc. Some of them are specifically related to the Traveller community, for instance, intensify efforts to combat systemic discrimination, address anti-Traveller and anti-Roma racism and discrimination in the forthcoming national action plan against racism; ensure the government led Traveller and Roma inclusion strategy is implemented and monitored; ensure Travellers have full access to and are actively informed about their education rights; and allocate appropriate resources to improve Traveller employment.

Although a comprehensive national framework is missing, some initiatives have taken place in 2022. In the area of education:

⁴⁰ Ireland, Joint Committee on Key Issues Affecting the Traveller Community (2021), [Final Report of the Joint Committee on Key Issues Affecting the Traveller Community](#), Dublin, November 2021.

⁴¹ Ireland, Joint Committee on Key Issues Affecting the Traveller Community (2021), [Final Report of the Joint Committee on Key Issues Affecting the Traveller Community](#), Dublin, November 2021, p. 5

⁴² UN Human Rights Council (2022), Decision adopted by the Human Rights Council on 24 March 2022. Outcome of the universal periodic review: Ireland, [A/HRC/DEC/49/113](#), 29 March 2022.

⁴³ UN Human Rights Council (2022), Report of the Working Group on the Universal Periodic Review: Ireland. Addendum. Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, [A/HRC/49/18/Add.1](#), 4 January 2022.

- a. The new Strategic Action Plan for Equity of Access, Participation, and Success in Higher Education, 2022-2028⁴⁴ launched by the Department of Higher and Further Education, includes a section on “priority groups”, including students who are members of Irish Traveller and Roma Communities.
- b. The government launched a tender as part of its plan to continue the Supporting Traveller and Roma (STAR) pilot project,⁴⁵ established in 2019 under the NTRIS with the aim of improving attendance, participation and school completion in specific Traveller and Roma communities regionally.
- c. The Minister of Education announced that under the 2022 Dormant Accounts Fund Action Plan, the Department had received €400,000 to tackle education disadvantage for Traveller and Roma communities and to support attendance, participation and retention among Traveller and Roma learners.⁴⁶ The funds will allow the appointment of ten new home-school community liaison (HSCL) coordinator posts supporting Traveller and Roma students in 14 post-primary schools newly added to the Delivering Equality of Opportunity in Schools (DEIS) programme. The Minister also announced that additional €100,000 of the same Dormant Accounts Funding were going to specifically support Traveller and Roma students as they transition from early learning and care settings to primary school, and from primary to post-primary school and onwards.⁴⁷

In November 2022, the government launched the first National Traveller Health Action Plan.⁴⁸ During the launch, it was acknowledged that Travellers experience severe health inequalities, arising from the social determinants of health, and they

⁴⁴ Ireland, Department of Higher and Further Education (2022), [National Access Plan. A Strategic Action Plan for Equity of Access, Participation, and Success in Higher Education, 2022-2028](#), Dublin.

⁴⁵ Department of Education (2022), [Minister Foley announces tender process for the independent pilot project, aimed at tackling education disadvantage in Traveller and Roma communities](#), Press release, 19 September 2022.

⁴⁶ Ireland, Department of Education (2022), [Minister Foley announces 2022 Dormant Accounts Funding to provide targeted supports to improve educational outcomes for Traveller and Roma students](#), Press release, Dublin, 4 October 2022.

⁴⁷ Ireland, Department of Education (2022), [Minister Foley announces 2022 Dormant Accounts Funding to provide targeted supports to improve educational outcomes for Traveller and Roma students](#), Press release, Dublin, 4 October 2022.

⁴⁸ Ireland, Department of Health (2022), [National Traveller Health Action Plan \(2022-2027\). Working together to improve the health experiences and outcomes for Travellers](#), Dublin.

also face obstacles in accessing healthcare services. The plan aims to provide a solid foundation upon which to build and maintain the additional health needs of the Traveller population.⁴⁹

Concerning participation, the Minister for Children, Equality, Disability, Integration and Youth, announced, during National Traveller Pride Week, the launch of a project to support young Travellers in having a voice in local and national policymaking. The project aims to strengthen the links between Traveller communities and their local Comhairle na nÓg (local youth councils), so that young Travellers can have a say in local and national decision-making on policy, programmes or services.⁵⁰ Additionally, a representative of the national membership of local Traveller organisations was appointed to the Civil Legal Aid Review Group established by the Minister of Justice to conduct a full review of the Civil Legal Aid Scheme.⁵¹ The review aims to evaluate how well access to justice is facilitated by the Scheme, particularly for those on low incomes. Access to justice for the Traveller Community keeps being complex and problematic. A key barrier for Travellers to access the criminal justice system in ways that protect their human rights is the lack of trust between the Travelling community, An Garda Síochána (police), and members of the judiciary. That is one of the main conclusions of a study led by the European Centre for the Study of Hate, based at the University of Limerick, and funded by an Irish Human Rights and Equality Grants Scheme.⁵²

The most relevant legal development came with the judgement of the Supreme Court⁵³ concerning the case a family living on an unauthorised site and facing eviction by a city council with no alternative accommodation offered by the Council. The legal decision protecting the Traveller family will set a precedent for councils in any future actions, as they will have to undertake a proportionality assessment from a court before a permanent injunction can be made against them requiring them to move,

⁴⁹ Ireland, Department of Health (2022), [Ministers for Health, Public Health, Wellbeing and the National Drugs Strategy, and Children, Equality, Disability, Integration and Youth, and the HSE launch the first National Traveller Health Action Plan](#), Press release, Dublin, 28 November 2022.

⁵⁰ Ireland, Department of Children, Equality, Disability, Integration and Youth (2022), [Minister O’Gorman marks National Traveller Pride Week with the launch of a project to support the participation of young Travellers in Comhairle na nÓg and other youth participation structures](#), Press release, Dublin.

⁵¹ Ireland, Department of Justice (2022), [Minister announces review of Civil Legal Aid Scheme](#), Press release, Dublin, 2 June 2022.

⁵² Joyce, S., O’Reilly, O., O’Brien, M., Joyce, D., Schweppe, J. and Haynes, A. (2022), [Irish Travellers’ Access to Justice](#), Limerick, European Centre for the Study of Hate.

⁵³ Ireland, Supreme Court, [\[2022\] IESC 2](#), Clare County Council v McDonagh & Anor.

and they will also have to consider Traveller vulnerability and marginalisation as factors to be taken into account when assessing a proposed eviction. Travellers will also be, in certain circumstances, able to avail of the protection afforded by the Irish Constitution's guarantee of the inviolability of the dwelling (Art. 40.5), in addition to relying on European Court of Human Rights principles (Art. 8 of the European Convention of Human Rights).

Asylum, borders, visas, migration and integration

National legal framework on criminalisation of 'humanitarian assistance' and domestic transposition of sanctions

| | | |
|-------------|---|---|
| EUMS | Implementation of Article 3 of Directive 2002/90/EC | |
| | How has your EUMS implemented Article 3 of Directive 2002/90/EU | Hyperlinked legal provision in EN and national language Ireland has enacted legislation to transpose the Directive by way of the Criminal Justice (Smuggling of Persons) Act 2021 . |
| | Cases [incident numbers] of criminalisation of humanitarian assistance One prosecution was reported in the national media in January 2022, ⁵⁴ but no information was published regarding whether a conviction was achieved. There is no comprehensive information on criminalisation of assistance available from the national authorities. The Central Statistics Office – Crime and Criminal Justice section confirmed that they do not presently record or disaggregate this information but are liaising with An Garda Síochána (AGS) in relation to future reporting of this information. ⁵⁵ | |
| | Number of cases recorded by the police in 2022 | Number and details of cases (if available) This information is not yet published. |

⁵⁴ Tuite, T. (2022), '[Woman arrested at Dublin Airport is first charged under new people smuggling law](#)', *The Irish Times*, 15 January 2022.

⁵⁵ Email and telephone exchange with the Central Statistics Office on 4 October 2022.

| | | |
|--|---|--|
| | Number of investigations initiated in 2022 | Number and details of cases (if available) This information is not yet published. |
| | Number of court decisions taken in 2022 | <ul style="list-style-type: none"> • Number and type of court decisions, information if decision is final. • Type of penalties imposed according to Article 1 2002/946/JHA: Council framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence • Describe in max three-four sentences the key court decisions in 2022 and add hyperlink to decision (if available) <p>There is no published information presently available regarding any of the above matters. There are presently no cases/judgments listed on legal databases pursuant to the provisions of the 2021 Act, nor are there any judgments relating to same listed by the Irish Courts Service.</p> |

Ireland transposed the Directive by enacting legislation, the Criminal Justice (Smuggling of Persons) Act 2021 (signed into law on 15 December 2021).⁵⁶ Various offences are provided for under Part 2 of the Act. The Criminal Justice Act makes it an offence for a person to intentionally assist in the unlawful entry into, transit across or presence in the State of another person, where that person’s entry/transit/presence in the State is in breach of a specified provision, and the first-mentioned person knows or

⁵⁶ Ireland, Houses of the Oireachtas, [Criminal Justice \(Smuggling of Persons\) Act 2021](#) (Act 42 of 2021), Section 6.

has reasonable cause to believe that such entry/transit/presence is in breach of a specified provision. This includes situations where such conduct is engaged in from outside the State.

The Criminal Justice Act⁵⁷ also creates offences for a person intentionally assisting unlawful entry into, transit across or presence in a designated state where that person knows or has reasonable cause for believing that such entry/transit or presence is in breach of immigration law in the designated state. A designated state is defined under Section 2⁵⁸ to include a Member State, Iceland, Liechtenstein, Norway, Switzerland, the United Kingdom, and a state party to the Protocol against the Smuggling of Migrants by Land, Sea and Air. Under Section 28⁵⁹ the Minister for Justice may also declare a state to be a designated state where the Minister is satisfied that the state has, by agreement between the state and the EU, agreed to implement and apply Council Directive 2002/90/EC and Council Framework Decision 2002/946/JHA, or an act or measure taken by the EU to amend or build on these acts.

Additionally, the Criminal Justice Act⁶⁰ makes it an offence to produce, procure, provide, possess or control fraudulent travel or identity documents for the purpose of assisting entry into, transit across or presence in the State or a designated state.

The Act (section 9)⁶¹ provides two defences to any offence committed under section six or seven. First, if it can be proved on the balance of probabilities, in order to provide assistance to a person seeking international protection in the State or an equivalent status in another state in the course of one's work on behalf of a bona fide organisation if the purpose of that organisation includes giving assistance without charge to persons seeking protection, or, second, for the purpose of providing humanitarian assistance, otherwise than for the purpose of obtaining, directly or indirectly, a financial or material benefit. Prior

⁵⁷ Ireland, Houses of the Oireachtas, [Criminal Justice \(Smuggling of Persons\) Act 2021](#) (Act 42 of 2021), Section 7.

⁵⁸ Ireland, Houses of the Oireachtas, [Criminal Justice \(Smuggling of Persons\) Act 2021](#) (Act 42 of 2021), Section 2.

⁵⁹ Ireland, Houses of the Oireachtas, [Criminal Justice \(Smuggling of Persons\) Act 2021](#) (Act 42 of 2021), Section 28.

⁶⁰ Ireland, Houses of the Oireachtas, [Criminal Justice \(Smuggling of Persons\) Act 2021](#) (Act 42 of 2021), Section 8.

⁶¹ Ireland, Houses of the Oireachtas, [Criminal Justice \(Smuggling of Persons\) Act 2021](#) (Act 42 of 2021), Section 9.

to the enactment of the legislation, the Irish Human Rights and Equality Commission recommended that humanitarian assistance be cast as exemption, or exclusion, from prosecution as opposed to a defence. In the interests of legal certainty, it also recommended that key terms, to include “humanitarian purpose”, “for gain” and “bona fide organisation” be defined and that the legislation include categories of persons and organisations that provide services that would be exempt from prosecution. However, the legislation did not address these concerns when enacted.⁶²

If convicted of an offence under the Act, Section 10⁶³ provides for penalties and a guilty person is liable on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months or both, or, on conviction on indictment, to a fine or to imprisonment for a term not exceeding 10 years or both. In determining the sentence to be imposed, the legislation further provides that a court shall (except where it considers that there are exceptional circumstances justifying not so doing it) treat as an aggravating factor any behaviour by the offender related to the commission of the offence (a) that endangered or was likely to endanger the life or safety of the person to whom the offence related, or (b) that resulted in the exploitation or inhuman or degrading treatment of the person to whom the offence related, and the court shall impose a sentence that is greater than that which it would have imposed in the absence of such an aggravating factor.

The Act also concerns enforcement measures against the smuggling of persons,⁶⁴ including enforcement powers in respect of ships,⁶⁵ the power to detain a vehicle,⁶⁶ and the forfeiture of ships, aircraft, or other vehicles.⁶⁷

⁶² Irish Human Rights and Equality Commission (2021), [Submission to the Joint Committee on Justice on the General Scheme of the Smuggling of Persons Bill 2020](#), February 2021, pp. 17-19.

⁶³ Ireland, Houses of the Oireachtas, [Criminal Justice \(Smuggling of Persons\) Act 2021](#) (Act 42 of 2021), Section 10.

⁶⁴ Ireland, Houses of the Oireachtas, [Criminal Justice \(Smuggling of Persons\) Act 2021](#) (Act 42 of 2021), Section 3.

⁶⁵ Ireland, Houses of the Oireachtas, [Criminal Justice \(Smuggling of Persons\) Act 2021](#) (Act 42 of 2021), Section 14.

⁶⁶ Ireland, Houses of the Oireachtas, [Criminal Justice \(Smuggling of Persons\) Act 2021](#) (Act 42 of 2021), Section 15.

⁶⁷ Ireland, Houses of the Oireachtas, [Criminal Justice \(Smuggling of Persons\) Act 2021](#) (Act 42 of 2021), Section 16.

Use of the large-scale IT Systems in the area of asylum, migration and border control

There is extremely limited published information regarding the use of large-scale IT systems relating to asylum, migration, and border controls in Ireland generally and/or for the period 2022 specifically. The Office of the Data Protection Commissioner and Irish Human Rights and Equality Commission have not issued any guidance or decisions in respect of any complaints received this year.

On 24 February 2022, the Data Protection Commissioner (DPC) published the Annual Report 2021.⁶⁸ The report confirmed that the DPC continued to participate in the work programmes of the European supervisory bodies for large-scale EU IT systems such as Schengen, Europol, Eurodac and Eurojust and reported that, in June 2021, a team of experts led by the European Commission carried out an on-site evaluation concerning the implementation of the Schengen Information System (SIS) in Ireland. In advance of this evaluation, the DPC was required to complete a detailed questionnaire focusing on the DPC's supervision of SIS II and engagement with An Garda Síochána (AGS). Because of Ireland's connection to SIS II, the DPC moved from its longstanding role as 'observer' to become a fully participating member of the data protection supervisory body of the SIS II. As part of its supervisory duties, the DPC engaged with AGS throughout 2021 on SIS II related matters including data subject information and access rights, Article 36 alerts and SIS II training.⁶⁹ However, the report does not identify any planned activities for 2022, nor is there currently any published information regarding relevant guidance or decisions issued for the year to date.

⁶⁸ Data Protection Commissioner (2022), [Data Protection Commission's Annual Report 2021](#), Dublin, February 2022.

⁶⁹ Data Protection Commissioner (2022), [Data Protection Commission's Annual Report 2021](#), Dublin, February 2022, p. 99.

Following Ireland's connection to SIS II in March 2021, the Department of Justice did publish some information regarding 74 arrests in Ireland arising from SIS data for various offences.⁷⁰ However, as noted above, the AGS Annual Report for 2021 is not yet published and there is no similar published information yet for 2022.

The published strategy of the Irish Human Rights and Equality Commission 2022-2024⁷¹ makes no reference to any planned initiatives regarding current or future systems relating to use of large-scale EU IT systems and no published guidance or decisions have been issued.

The Budget 2022⁷² for the Department of Justice with responsibility for immigration and AGS referred allocated capital Budget of €147 million to AGS for ICT and Building Programme and, under ICT Investment - Modernisation of Service Delivery, an additional €10 million to significantly increase digital services was allocated to the Department for 'developing a fully digital, customer centric immigration service'. The recently published budget for the Department of Justice indicates an extra €21million for ICT capital in 2023 but there is no detail in either the Budget 2022 or 2023 about whether any of it relates to asylum, migration or border controls. The Minister's media statement on Budget 2023⁷³ refers generally to supporting the rollout of critical modernisation and digitisation needs across the Justice sector but again there are no specifics relating to asylum, migration, or border controls. In November 2022, the Minister for Justice was requested by way of Parliamentary Question to set out the amount allocated in Budget 2023 to update ICT, the amounts to be allocated to updating the digitalisation needs relating asylum, migration or border controls including Eurodac, SIS and the Visa Information System, and to set out the relevant expenditure in 2022. By way of written response, the Minister addressed the 2022 and 2023 allocation for projected overall ICT expenditure (as detailed above), but did not explain how they are broken down by categories; he only

⁷⁰ Ireland, Department of Justice (2022), [Minister Humphreys and Garda Commissioner Harris mark six months of Ireland's connection to Schengen Information System \(SIS II\)](#), Press release, 16 September 2021.

⁷¹ Irish Human Rights and Equality Commission (2022), [Strategy Statement 2022-2024](#), Dublin.

⁷² Department of Justice (2021), [Protecting communities and supporting victims at centre of Justice Budget 2022](#), Press release, 12 October 2021.

⁷³ Department of Justice (2022), [Stronger, safer communities prioritised in Justice Budget 2023](#), 27 September 2022.

stated that “digitalisation needs relating immigration and international protection are a significant component of this expenditure across a number of categories [...] including hardware, software and professional services”.⁷⁴

The Garda Síochána (Recording Devices) Bill 2022⁷⁵ provides for the use of facial recognition technologies (FRT) within a range of surveillance technologies in Ireland, including CCTV cameras and police body cameras, and automatic number plate recognition (ANPR) in certain circumstances. Civil society organisations⁷⁶ and members of academic communities⁷⁷ have expressed concerns regarding the use of FRT and adequacy of privacy safeguards. The legislation has not yet been enacted and there are no reported specific new developments regarding the use of new technology in Ireland in 2022 (such as biometric technology, e.g., facial image recognition, biometric scanners, etc.) for asylum, border control or migration purposes.

There are presently no cases/judgments listed on legal databases or the Irish Court Service judgments related to the processing of personal data by new technologies in asylum, migration, and border management in 2022.

⁷⁴ Ireland, Minister for Justice (2022), [Answer to Parliamentary Question 260](#), 17 November 2022.

⁷⁵ Ireland, Houses of the Oireachtas, [Garda Síochána \(Recording Devices\) Bill 2022](#) (Bill 79 of 2022).

⁷⁶ Iris Council for Civil Liberties (2022), [ICCL Report to the UN Human Rights Committee Alternative to the State Report for Ireland’s 2022 Review under the ICCPR](#), May 2022, p. 40.

⁷⁷ AA.VV. (2022), '[Garda use of facial recognition technologies unnecessary and disproportionate](#)', *The Irish Times*, 2 June 2022. The open letter was signed by 52 experts including staff of seven Universities and 12 NGOs.

Information society, privacy, and data protection

Initiatives in the use of artificial intelligence in both private and public sectors

| Actor | Type | Description | Are Human Rights issues mentioned? (yes/no) | Reference |
|--|---|---|--|---|
| Government (Department of Enterprise, Trade and Employment) | Other (Appointment of AI advocate) | Appointment of Dr Patricia Scanlon as Ireland's first Artificial Intelligence (AI) Ambassador. The role is to 'promote awareness among the public and businesses of the potential that AI offers, serving as a champion of AI as a positive force for the economy and society, and emphasising an ethical approach'. The appointment of an AI Ambassador was a commitment under the Irish strategies ' AI - Here for Good: A National AI Strategy for | No, but it does mention the importance of promoting ethical values in AI and avoiding outcomes such as bias. | Department of Enterprise, Trade, and Development (2022), ' Minister Troy appoints Ireland's first Artificial Intelligence Ambassador ', Press release, 10 May 2022. |

| | | | | |
|--|--------|---|---|--|
| | | Ireland and Ireland's National Digital Strategy, ' Harnessing Digital: The Digital Ireland Framework '. | | |
| Other (National advisory group with representatives from across central government and other state agencies ((Expert Group on | Report | Publication of report on skills needed 'to ensure Ireland is equipped with the necessary skills for the deployment, management and regulation of AI'. Considers both workforce skills for effective use of AI and also state/regulatory skills in relation to regulation of AI. | Yes. Identifies the importance of awareness of AI ethics and refers to EU Commission, UNESCO, OECD and Council of Europe initiatives on AI regulation and ethics. | Ireland, Department of Enterprise, Trade, and Development (2022), AI Skills: A Preliminary Assessment of the Skills Needed for the Deployment, Management and Regulation of Artificial Intelligence , Dublin, June 2022. |

| | | | | |
|---|--------|---|--|---|
| Future Skills Needs) | | | | |
| Government (Department of the Taoiseach) | Report | Publication of government report on national digital strategy. In relation to AI it largely summarises existing developments but also contains a new commitment to 'Promote the creation of testbeds and regulatory sandboxes for AI and other digital technologies, including by reducing regulatory obstacles and nurturing a supportive ecosystem.' (p.13) | Yes. It states that Ireland will ensure a strong and well-resourced regulatory framework for the protection of data protection rights and for the Irish Digital Services Coordinator under the Digital Services Act. | Ireland, Department of the Taoiseach (2022), Harnessing Digital. The Digital Ireland Framework , Dublin, February 2022. |

Legal and policy initiatives on data protection and private life

Communications (Retention of Data) (Amendment) Act 2022

The most important Irish development in this area was the adoption of the Communications (Retention of Data) (Amendment) Act 2022.⁷⁸ This Act was prompted by the decision of the Court of Justice of the European Union in *G.D. v Commissioner of An Garda Síochána and others*⁷⁹ which confirmed that the retention and access provisions of the Communications (Retention of Data) Act 2011 were contrary to EU law.

The 2022 Act was rushed through parliament in July 2022 as an emergency measure with just four days of debate. This was extremely controversial, particularly as there was no public or industry consultation, no consultation with the Data Protection Commission (as required by the GDPR and Law Enforcement Directive⁸⁰), no Data Protection Impact Assessment, and members of parliament were not provided with the text in advance. Despite this haste, as of 11 October 2022 the 2022 Act has not yet been brought into force.

When brought into force the 2022 Act will repeal the provisions of the 2011 Act providing for general and indiscriminate retention of telephony communications data and police access to that data without independent authorisation.

Instead, the 2022 Act will differentiate between retention for state security and criminal law purposes and will establish different standards for retention and access depending on whether the information is communications traffic and location data ('Schedule 2 data'), user data, internet source data, or cell site location data. In short, the 2022 Act will:

⁷⁸ Ireland, Houses of the Oireachtas, [Communications \(Retention of Data\) \(Amendment\) Act 2022](#) (Act 25 of 2022).

⁷⁹ Supreme Court of Ireland, [Case C-140/20](#) of 25 March 2020, *G.D. v The Commissioner of the Garda Síochána, Minister for Communications, Energy and Natural Resources, Attorney General*.

⁸⁰ Ireland, Houses of the Oireachtas, [Data Protection Act 2018](#) (Act 7 of 2018), Section 84(12); also, [Regulation \(EU\) 2016/679](#) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), Article 36(4).

- Permit the Minister for Justice to apply to a High Court judge to seek an order providing for general and indiscriminate retention of communications traffic and location data for twelve months, for state security purposes only;⁸¹
- Require general and indiscriminate retention of user data and internet source data (such as names, addresses, IMSI and IMEI numbers, user IDs and assigned IP addresses) on all users for twelve months for both national security and criminal law purposes;⁸²
- Allow police access to communications traffic data, location data, and internet source data for state security and criminal law purposes, based on judicial authorisation;⁸³
- Allow police access to user data for state security and criminal law purposes, without independent authorisation;⁸⁴
- Allow police access to cell site location data, communications traffic data, location data and internet source data without independent authorisation in cases of urgency;⁸⁵
- Allow police to seek judicial temporary preservation orders ('quick freeze' orders) in relation to communications traffic and location data for state security and criminal law purposes;⁸⁶
- Provide for notification of individuals whose data has been disclosed under the Act;⁸⁷ and
- Provide for continued retention of data retained under the previous law.⁸⁸

The 2022 Act otherwise leaves the scope of the 2011 Act unchanged (applying to traditional telecommunications providers but not over the top services), and also leaves its oversight mechanisms unchanged.

⁸¹ Ireland, Houses of the Oireachtas, [Communications \(Retention of Data\) \(Amendment\) Act 2022](#) (Act 25 of 2022), Section 4.

⁸² Ireland, Houses of the Oireachtas, [Communications \(Retention of Data\) \(Amendment\) Act 2022](#) (Act 25 of 2022), Sections 3 and 4.

⁸³ Ireland, Houses of the Oireachtas, [Communications \(Retention of Data\) \(Amendment\) Act 2022](#) (Act 25 of 2022), Section 6.

⁸⁴ Ireland, Houses of the Oireachtas, [Communications \(Retention of Data\) \(Amendment\) Act 2022](#) (Act 25 of 2022), Section 5.

⁸⁵ Ireland, Houses of the Oireachtas, [Communications \(Retention of Data\) \(Amendment\) Act 2022](#) (Act 25 of 2022), Section 6.

⁸⁶ Ireland, Houses of the Oireachtas, [Communications \(Retention of Data\) \(Amendment\) Act 2022](#) (Act 25 of 2022), Section 7.

⁸⁷ Ireland, Houses of the Oireachtas, [Communications \(Retention of Data\) \(Amendment\) Act 2022](#) (Act 25 of 2022), Section 8.

⁸⁸ Ireland, Houses of the Oireachtas, [Communications \(Retention of Data\) \(Amendment\) Act 2022](#) (Act 25 of 2022), Section 9.

While in some regards the 2022 Act would be an improvement on the position under the 2011 Act, it still does not meet the standards articulated by the Court of Justice of the European Union and European Court of Human Rights in relation to state surveillance. For example, the Act does not define what is meant by 'security of the state', does not provide explicit protection for journalists' sources, and does not provide any judicial remedy to individuals for breaches.⁸⁹ It also fails to address concerns about the adequacy of the surveillance oversight mechanisms (the designated judge and Complaints Referee) which are part-time and very limited in their scope.⁹⁰

Police Facial Recognition

There has also been significant concern about Government plans to introduce police facial recognition technologies (FRT). The Garda Síochána (Recording Devices) Bill 2022⁹¹ is currently (October 2022) before the Oireachtas (Parliament) and the Government has stated that it plans to amend that Bill to permit the use of FRT on police cameras.⁹² This has not been the subject of any pre-legislative scrutiny or consultation and there has been no discussion of any safeguards or oversight structure to regulate it. It also runs counter to the recommendation of the Joint Committee on Justice following pre-legislative scrutiny that body worn cameras and CCTV should not use FRT.⁹³

In September 2022 four UN Special Rapporteurs on human rights (the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right to privacy and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) sent a communication to the Irish Government expressing a number of concerns including that:

⁸⁹ Digital Rights Ireland and Irish Council for Civil Liberties (2022), [Briefing on the Communications \(Retention of Data\) \(Amendment\) Bill 2022](#), July 2022.

⁹⁰ As described in McIntyre, T.J. 'Judicial Oversight of Surveillance: The Case of Ireland in Comparative Perspective', in M. Scheinin, H. Krunke and M. Aksenova (eds.), *Judges as Guardians of Constitutionalism and Human Rights* (Cheltenham: Edward Elgar, 2016).

⁹¹ Ireland, Houses of the Oireachtas, [Garda Síochána \(Recording Devices\) Bill 2022](#) (Bill 79 of 2022).

⁹² Ireland, Minister for Justice (2022), [Answer to Parliamentary Question 1286](#), 14 June 2022.

⁹³ Ireland, Houses of the Oireachtas, Joint Committee on Justice (2021), [Report on Pre-Legislative Scrutiny of the General Scheme of the Garda Síochána \(Digital Recording\) Bill](#), December 2021.

'Authorization of the use of FRT by law enforcement could significantly limit the exercise of fundamental freedoms, including the rights of freedom of expression (under article 19 of the International Covenant on Civil and Political Rights ("the Covenant")), privacy (article 17 of the Covenant), and freedom of peaceful assembly and of association (articles 20 and 21 of the Covenant). Further, such a proposal is out of step with the growing international consensus against the use of FRT, something reflected in the European Commission's current legislative proposals in the field of artificial intelligence ('AI').'⁹⁴

Online content moderation

The Online Safety and Media Regulation Act 2022⁹⁵ was passed in December 2022.⁹⁶ It transposes the revised Audiovisual Media Services Directive⁹⁷ into Irish law and establishes a new Media Commission ('Coimisiún na Meán') which takes over the broadcasting and on-demand regulation functions of the previous regulator, the Broadcasting Authority of Ireland. The Media Commission is also intended to be the Irish digital services coordinator under the Digital Services Act.⁹⁸

The Online Safety and Media Regulation Act 2022 goes significantly further than the revised AVMSD requires. It extends beyond broadcasters and on demand services to include online services generally, including social media, providers of private cloud

⁹⁴ Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the rights to freedom of peaceful assembly and of association, Special Rapporteur on the right to privacy, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, [OL IRL 3/2022](#), 30 September 2022.

⁹⁵ Ireland, Houses of the Oireachtas, [Online Safety and Media Regulation Act 2022](#) (Act 41 of 2022).

⁹⁶ A brief and helpful analysis can be found in O'Neill, B. (2022), [Ireland's Online Safety and Media Regulation Act](#) (CO:RE Policy Brief Series No. 1), Hamburg, Leibniz-Institut für Medienforschung.

⁹⁷ Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities, OJ L303, 28 November 2018.

⁹⁸ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act), OJ L277, 27 October 2022.

storage and private communications services. The Act empowers the Media Commission to make binding Online Safety Codes regarding the availability of illegal and harmful content, which will be binding on designated relevant online service providers. There is also provision for an individual complaints mechanism which will allow individual users of those service providers to complain to the Media Commission in respect of online content. 'Harmful' online content is defined widely to include bullying or humiliation, material promoting eating disorders, and material promoting or providing methods for self-harm/suicide. In addition, a government minister may by order designate additional categories of online content as 'harmful'.

Although the Act has been broadly welcomed by children's rights groups, in pre-legislative scrutiny of the draft legislation (Heads of an Online Media and Safety Regulation Bill) the breadth of these provisions was criticised by civil rights NGOs the Irish Council for Civil Liberties and Digital Rights Ireland, who were concerned about their impact on freedom of expression and privacy, particularly the vague nature of the definition of harmful content and the inclusion of private communications in their scope.⁹⁹

⁹⁹ Irish Council for Civil Liberties (2021), [ICCL submission on the Online Safety and Media Regulation Bill](#), Dublin, 8 March 2021; McIntyre, T. J., (2021), [Submission to Joint Committee on Media, Tourism, Arts, Culture, Sport and the Gaeltacht: General Scheme of the Online Safety and Media Regulation Bill](#), 26 May 2021.

Rights of the child

Measures addressing vulnerabilities of children living in poverty and developments regarding the national implementation of the EU Child Guarantee

Measures addressing vulnerabilities of children living in poverty and developments regarding the national implementation of the [EU Child Guarantee](#).

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|----------------------------|---|
| Legislative changes | Educational (Provisions in Respect of Children with Special Needs) Act 2022 ¹⁰⁰ provides that special classes shall be provided for children with special education needs. |
| Policy changes | On 15 June 2022, The Department of Children, Equality, Disability, Integration and Youth published Ireland's Child Guarantee National Action Plan. ¹⁰¹ This extensive plan addresses all heads of the EU Child Guarantee and commits to undertaking research to gather base line information and pilot studies to trial initiatives aimed at improving the lives of children in Ireland. The strategy aims to adopt a collaborative approach across all relevant government departments to address free access to early childhood education and care, education generally, healthcare of children including healthy nutrition and the provision of healthy school meals and housing. Building on the Better Outcomes Brighter Futures first phase, the succession framework places children at the heart of the decision-making process and includes hearing the voice of the child. A mid-term review of the targets set by Ireland in the Roadmap for Social Inclusion 2020-2025, Ambitions, Goals and Commitments notes that while all targets have not be achieved, the number of children living in consistent poverty has been reduced by 54,000 since 2013. The Government committed €7.8 billion to the implementation of the EU Child Guarantee with a focus on investment in education, early learning |

¹⁰⁰ Ireland, Houses of the Oireachtas, [Educational \(Provisions in Respect of Children with Special Needs\) Act 2022](#) (Act 22 of 2022).

¹⁰¹ Department of Children, Equality, Disability, Integration and Youth (2022), [EU Child Guarantee. Ireland's National Action Plan](#), Dublin.

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| | <p>and School aged childcare, health and nutrition and housing and announced the head of the EU and International Unit under the auspices of the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) as the National Coordinator for the EU Child Guarantee Scheme in Ireland. The Action Plan focuses amongst other things on improving access to and remit of education to ensure that it is inclusive, diverse, and accommodates the special needs of children, that appropriate digital, literacy and numeracy strategies are in place, early learning and care are provided for and that health and housing needs are addressed.</p> |
| <p>Other measures or initiatives</p> | <p>On 7 September 2022, the Government announced increased rates of pay for Early Years Teachers and increased hourly rates for Early Years Education.¹⁰²</p> <p>On 28 September, the Minister for Education announced an investment of €47 million euro to provide free schoolbooks for more than 500,000 children; this will apply from September 2023. Additional measures announced included €20 million increase in the School Meals Programme’s budget</p> <p>In October, the Department of Education announced the allocation of €400,000 from the 2022 Dormant Accounts Fund Action Plan, to tackle education disadvantage for Traveller and Roma communities and to support attendance, participation and retention among Traveller and Roma learners.¹⁰³ This will facilitate the appointment of ten new home-school community liaison (HSCL) coordinator posts supporting Traveller and Roma students in 14 non-DEIS post-primary schools.</p> <p>The Government applied an increased electricity credit of €600 per household: €200 to be paid before Christmas and two instalments of €200 in the New Year to combat rising costs associated with the energy crisis. Additional funds are being put in place to help householders retrofit their homes (half a billion euro).</p> |

¹⁰² Ireland, Department of Enterprise, Trade, and Development (2022), [‘Historic’ new pay agreement to provide pay increases and wage structure for early learning and childcare workers – Ministers English and O’Gorman](#), Press release, 7 September 2022.

¹⁰³ Ireland, Department of Education (2022), [Minister Foley announces 2022 Dormant Accounts Funding to provide targeted supports to improve educational outcomes for Traveller and Roma students](#), Press release, 4 October 2022.

Legal and policy developments or measures in relation to child-friendly procedures for children as victims, witness or suspects/accused in criminal proceedings.

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|--------------------------------------|---|
| Legislative changes | No legislative changes to-date in 2022 |
| Policy developments | <p>Ireland has transposed the Anti-Trafficking Directive (2011/36). In August 2022, the Irish Human Rights and Equality Commission, as National Rapporteur, published its Monitoring Report on the implementation of the Directive and highlighted delays in the establishment of a National Referral Mechanism, inadequate identification, classification and data collection of child trafficking cases and lack of legal assistance and representation for child victims of trafficking¹⁰⁴</p> <p>On 28 June 2022, the Zero Tolerance Strategy¹⁰⁵ was published which will update primary and secondary school curricula to include education on consent, coercive control, domestic violence, and the safe use of the internet and in July 2022 the Government published a child-friendly version of the third National Domestic Sexual and Gender Based Violence Strategy.¹⁰⁶</p> |
| Other measures or initiatives | In February 2022, the Minister for Education established a Steering Group to develop an Action Plan to review Anti-Bullying Procedures for primary and post-primary schools. In May of 2022, she launched a consultation process seeking the views of parents, school staff members, education partners and those involved in school communities to 'have their say' on a |

¹⁰⁴ Irish Human Rights and Equality Commission (2022), [Trafficking in Human Beings in Ireland. Evaluation of the Implementation of the EU Anti-Trafficking Directive](#), Dublin, June 2022.

¹⁰⁵ Government of Ireland (2022), [Zero Tolerance for Domestic, Sexual and Gender-Based Violence](#), Dublin; it includes a strategy and an implementation plan.

¹⁰⁶ Department of Justice (2022), [Third National Domestic, Sexual and Gender-Based Violence Strategy \(Child Friendly Version\)](#), Dublin.

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| | <p>consultation process on preventing and tackling bullying in schools. This consultation process also extends to students.</p> <p>On 28 July 2022 the Minister for Justice announced the publication of the General Scheme of the Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022¹⁰⁷ which, when enacted, will remove the final legislative barrier to Ireland’s ratification of the Second Optional Protocol to the UN Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.</p> <p>The General Scheme of the Inspection of Places of Detention Bill was published in June 2022.¹⁰⁸ The Bill will provide for National Preventive Mechanisms to inspect all detention centres to include child detention centres. It will include the inspection of Garda Stations, holding cells, vehicles transporting individuals and immigration-related detention centres.</p> |
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¹⁰⁷ Department of Justice (2022), [General Scheme of the Criminal Justice \(Sexual Offences and Human Trafficking\) Bill 2022](#), Dublin.

¹⁰⁸ Department of Justice (2022), [General Scheme: Inspection of Places of Detention Bill](#), Dublin.

Access to justice – Victims’ Rights and Judicial Independence

Legal and policy developments or measures relevant to the implementation of the Victims’ Rights Directive and the EU strategy for Victims’ Rights 2020-2025

The Victims’ Rights Directive has been fully incorporated into Irish law, largely through the Criminal Justice (Victims of Crime) Act 2017.¹⁰⁹ There was little direct discussion of the EU Strategy for Victims’ Rights in Ireland in 2022; nevertheless, there were several developments with direct relevance for the component elements of the Strategy. The Law Reform Commission issued a consultation paper on the proper compensation of victims of crime.¹¹⁰ The paper sought views as to the main form of criminal compensation in Ireland: awards from the Criminal Injuries Compensation Scheme. This Scheme, run by a Tribunal staffed by part-time officers, was established in 1974 on a non-statutory basis to make awards to victims of crime. For much of its existence (1986 to 2021), the Tribunal was precluded from making awards for pain and suffering; its awards were limited to special damages (i.e., loss of earnings and medical bills). In 2021, the Tribunal was expanded and, largely in response to the Victims’ Compensation Directive, the Tribunal’s power to make awards for pain and suffering was restored. Further, the so-called “one roof” rule – which precluded any awards in cases where the victim and offender lived under the same roof – was abolished. Notwithstanding these improvements, the Commission sought views as to whether the Scheme should have a statutory basis, whether the compensation on offer should include non-financial awards as in other European countries, and how the Tribunal’s work ought to be funded.¹¹¹ The consultation period closed in April 2022, but the final report has not yet been published. The Rape Crisis Network Ireland (RCNI) has expressed support for a statutory basis for the Tribunal and suggested that the Tribunal be partly funded from fines and seizures of the proceeds of crime.¹¹² The RCNI also suggested paying compensations for psychological damages.

¹⁰⁹ Ireland, Houses of the Oireachtas, [Criminal Justice \(Victims of Crime\) Act 2017](#) (Act 28 of 2017).

¹¹⁰ Law Reform Commission (2022), [Consultation Paper. Compensating Victims of Crime \(LRC CP 67-2022\)](#), Dublin.

¹¹¹ At present, the Oireachtas (the Irish Parliament) issues the Tribunal an annual budget (€7 million in 2021, up from €4 million in 2020). Once this budget has been exhausted, no further awards can be made until the Oireachtas issues a new annual budget. In practice, this means that claimants who have valid claims must wait for another year before they can receive an award.

¹¹² Rape Crisis Network Ireland (2022), [Compensation for Victims of Crime Consultation by Law Reform Commission – RCNI Responses](#), Dublin.

Concerning the criminal injuries compensation scheme, the Tribunal released its Annual Report for 2021 in November 2022.¹¹³ The Tribunal received 182 new applications (118 under the general scheme and 64 under the prison officer scheme); this is a decrease from 2020 (198 applications received) and 2019 (238 applications received). The Tribunal made a total of 177 awards worth €3,804,567 in 2021.

In June, the government established a Victims' Forum to examine how victims' rights can be improved through a review of legislation, information sharing and service provision.¹¹⁴ The Forum is co-chaired by a senior civil servant in the Department of Justice and the CEO of the One in Four organisation. The Forum met for the first time remotely in March 2022, and in person on 10 November 2022. The Minister for Justice stated that: "The Victims' Forum provides a space for the organisations working to help victims, both government and NGO, to articulate their views and share their experience in order to help us all make real improvements in how victims and survivors are treated".¹¹⁵ The Minister also indicated that she has provided an additional €5.8 million to promote and assist the development of specific support services for victims within the criminal justice system in 2023. No reports from the Forum have been made public yet.

The government increased the funding available in 2022 for non-governmental organisations involved in the provision of support for victims of crime.¹¹⁶ The Budget for 2022 set aside €4.9 million for the Department of Justice specifically for victims of crime, and the Minister for Justice announced in March that €4.6 million had been allocated to some 60 organisations. The amount available in 2021 was €3.8 million. In October 2022, the Irish government issued a funding call for 2023 in respect of assisting victims of crime, providing support services and information, providing court accompaniment, reducing delays, and to expand services into other geographic areas.¹¹⁷ The call closed on 26 October 2022.

¹¹³ Ireland Criminal Injuries Compensation Tribunal (2022), [Annual Report 2021](#), Dublin, November 2022.

¹¹⁴ Murphy, A. (2022), '[Forum established to improve rights of victims of crime](#)', *Irish Examiner*, 6 June 2022.

¹¹⁵ Ireland, Department of Justice, '[Minister McEntee welcomes Victims' Forum as key space to improve services and supports](#)', Press release, 10 November 2022.

¹¹⁶ Ireland, Department of Justice (2022), '[Minister McEntee announces substantially increased funding for organisations supporting victims of crime](#)', Press release, 30 March 2022); Parliamentary Question 23 Ireland, Minister for Justice (2022), '[Answer to Parliamentary Question 23](#)', 5 July 2022.

¹¹⁷ Ireland, Department of Justice (2022), '[Victims of crime funding call 2023](#)', Press release, 5 October 2022.

TUSLA, the Irish Child and Family Agency, conducted and published a review of the provision of refuge accommodation for victims of domestic violence.¹¹⁸ The Review shows that Ireland is in breach of its refuge obligations under the Istanbul Convention: In order to provide one family refuge place per 10,000 population, Ireland needs to increase its places from 141 at present to 476 – an increase of 335. To reach 70% of the Istanbul requirement would require the provision of 198 new family refuge places. The Irish government has accepted the need to fund extra refuge places as a matter of priority.¹¹⁹

The government announced in November 2022 the construction of a new domestic violence refuge in Wexford, the first of 13 priority areas to receive such support by 2025; the refuge will cost €6.4 million.¹²⁰ Further, the Minister announced an additional €6.8 million for TUSLA to funnel to providers of services for victims of DSGBV.¹²¹

Measures addressing violence against women

The EU has proposed a new Directive on combatting violence against women and domestic violence, and on 21 June 2022 both Houses of the Oireachtas supported a motion allowing Ireland to opt-in to this Directive under Protocol 21 of the Treaty on the Functioning of the European Union.¹²²

The government published the third national strategy on domestic, sexual and gender-based violence, to run from 2022 to 2026.¹²³ This strategy proposes the creation of a Cabinet Committee on Social Affairs and Equality, to be chaired by An Taoiseach (Prime Minister), which will provide a high level of political oversight of the issue. To assist in this function, the Strategy proposes the creation of a

¹¹⁸ Ireland, Child and Family Agency, TUSLA (2022), [Review of the Provision of Accommodation for Victims of Domestic Violence](#), 2022.

¹¹⁹ Ireland, Department of Justice (2022), [Ministers McEntee and O’Gorman welcome publication of review of accommodation for victims of domestic violence](#), Press release, 16 February 2022.

¹²⁰ Ireland, Department of Justice, [New domestic violence refuge in Wexford to commence construction](#), Press release, 11 November 2022.

¹²¹ Ireland, Department of Justice, [Minister McEntee details extra funding for DSGBV service providers](#), Press release, 21 November 2022.

¹²² Ireland, Department of Justice (2022), [Minister McEntee welcomes decision to opt into proposed EU Directive combating violence against women and domestic violence](#), Press release, Dublin, June 2022.

¹²³ Ireland, Department of Justice (2022), [Third National Strategy on Domestic, Sexual and Gender-Based Violence, 2022-2026](#), Dublin.

High-Level Oversight Board, to be chaired by the Secretaries-General of the Departments of An Taoiseach and Justice. Finally, the Strategy proposes the creation of a new statutory agency within the Department of Justice to coordinate all government activity in this area. This agency will require specific founding legislation, staffing and funding. In terms of policy, the Strategy sets out four pillars for action:

- Prevention – the eradication of social and cultural norms that underpin and contribute to gender-based violence
- Protection – ensuring that victims of gender-based violence have access to immediate and to longer-term safety and support
- Prosecution – ensuring that the justice system implements the law and provides consistent enforcement, and a judicial process that vindicates the rights of victims of gender-based violence
- Policy Coordination – to ensure that the State, via the Department of Justice, offers a “comprehensive, co-ordinated, authoritative, monitored and evaluated set of responses to DSGBV”.

The Government has indicated that this strategy will be implemented by the end of 2023.¹²⁴

As part of Ireland’s presidency of the Council of Europe, the Minister for Justice hosted a two-day conference which resulted in the *Dublin Declaration on the Prevention of Domestic, Sexual and Gender-Based Violence* in September 2022.¹²⁵ This Declaration, adopted by 38 countries, restated the commitment of these countries to combating this kind of violence through a variety of measures.

The Irish Police, An Garda Síochána, established a Human Trafficking Investigation and Co-ordination Unit (HTICU) in 2020 which dealt with 51 incidents of human trafficking in 2021, and 29 so far in 2022.¹²⁶ A parliamentary question elicited the

¹²⁴ Ireland, Department of Justice (2022), [Third National Strategy on Domestic, Sexual and Gender-Based Violence: Implementation Plan](#), Dublin.

¹²⁵ Council of Europe (2022), Declaration of Council of Europe Ministers on the Prevention of Domestic, Sexual, and Gender-Based Violence. On the occasion of the Conference “No Safe Haven”: Integrated Prevention Measures to End Domestic, Sexual and Gender-based Violence, Dublin, September 2022.

¹²⁶ Ireland, Minister for Justice (2022), [Answer to Parliamentary Question 421](#), 27 September 2022.

number of incidents and charges brought in respect of human trafficking up to July 2022:¹²⁷

| | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Incidents | 52 | 69 | 42 | 68 | 51 | 15 |
| Charges | 119 | | 15 | 12 | 27 | |

The Department of Justice is working on a new National Plan on Human Trafficking, to be unveiled in the fourth trimester of 2022.¹²⁸

The government published the Criminal Justice (Miscellaneous Provisions) Bill 2022 on 9 September 2022.¹²⁹ The Bill proposes to make several changes to the criminal law that will directly affect women. First, the Bill proposes to create new offences of non-fatal strangulation and suffocation, punishable by up to 5 years' imprisonment. It will be a defence for the defendant to show that the complainant consented to the act in question. The Minister for Justice told the Dáil that strangulation is a feature of domestic violence and is often a predictor of more serious violence. She indicated that the Commissioner of An Garda Síochána had specifically requested the introduction of this offence.¹³⁰ Second, the Bill proposes to create a new offence of non-fatal strangulation or suffocation causing serious harm, punishable by up to life imprisonment. Consent will not be a defence to such a charge, which is in keeping with the policy of Irish criminal law – consent to the infliction of serious harm generally is not operative. Third, the Bill proposes to insert a new and more expansive offence of harassment into the Non-Fatal Offences against the Person Act 1997, along with a new offence of stalking. These offences will be prosecutable either summarily or on indictment; if the latter, the maximum penalty will be 10 years' imprisonment. Finally, the Bill proposes to allow for the issue of civil orders in respect of harassment or stalking. These orders will prohibit the subject of the order from using or threatening to use violence, following, or communicating with the victim, approaching the victim's residence or place of education or employment, or from engaging in any other conduct specified by the court. The Rape Crisis Network Ireland has generally welcomed

¹²⁷ Ireland, Minister for Justice (2022), [Answer to Parliamentary Questions 31 and 64](#), 5 July. For GDPR reasons, no details of charges are given if the number is less than ten.

¹²⁸ Ireland, Minister for Justice (2022), [Answer to Parliamentary Questions 31 and 64](#), 5 July 2022.

¹²⁹ Ireland, Houses of the Oireachtas, [Criminal Justice \(Criminal Justice \(Miscellaneous Provisions\) Bill 2022](#).

¹³⁰ Ireland, Minister for Justice (2022), [Parliamentary debate on the Criminal Justice \(Miscellaneous Provisions\) Bill 2022: Second Stage](#), 13 October 2022.

these proposals, but they have recommended the deletion of the consent defence to a charge of non-fatal strangulation or suffocation.¹³¹ The Bill was introduced in Parliament and, although the government indicated that it intended to have the bill enacted by the Autumn,¹³² they missed this target: as of 19 December, the Bill is at the Report Stage in Dáil Éireann (stage four of eleven).

The government has also published the general scheme of the Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022 on 27th July 2022.¹³³ Perhaps the most important change proposed is an alteration of the mental element of the crime of rape. At present, Irish law requires the prosecution in a rape case to prove that the defendant either knew that the victim was not consenting to sexual intercourse or was reckless as to whether or not she was consenting.¹³⁴ The Irish Supreme Court has accepted that this standard is entirely subjective and is judged from the defendant's perspective.¹³⁵ The practical effect of this was demonstrated by the English case *DPP v. Morgan*,¹³⁶ in which a defendant who honestly believes a woman to be consenting to sexual intercourse is not guilty of rape even if that belief was entirely unreasonable. The Irish Law Reform Commission recommended that the mental element of rape be changed such that an error as to consent should be reasonable before the defendant can be acquitted.¹³⁷ The general scheme of the bill proposes to adopt this objective standard and to enact it into Irish law.

The general scheme also proposes to ensure anonymity for victims in all sexual trials (at present, Irish law does not guarantee anonymity for victims in sexual assault cases). This change was recommended by an earlier study of rape law in Ireland.¹³⁸ Second, the general scheme proposes to remove any final legislative barriers to Ireland's ratification of the Second Optional Protocol to the UN Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Finally, the general scheme proposes to put the National Referral Mechanism on a statutory footing, in order to advance the identification

¹³¹ Rape Crisis Network Ireland (2022), [RCNI Observations on the Criminal Justice \(Miscellaneous Provisions\) Bill 2022](#), Dublin.

¹³² Department for Justice (2022), [New System of court orders to restrain stalking behaviour and protect victims as part of new bill from Minister McEntee](#), Press release, 9 September 2022.

¹³³ Department of Justice (2022), [General Scheme of the Criminal Justice \(Sexual Offences and Human Trafficking\) Bill 2022](#), Dublin.

¹³⁴ Ireland, Houses of the Oireachtas, [Criminal Law \(Rape\) Act 1981](#) (Act 10 of 1981).

¹³⁵ Supreme Court of Ireland, [IESC 64](#) of 11 November 2016, *People (DPP) v. C O'R.*

¹³⁶ House of Lords, [1975] UKHL 3, [1976] [AC 182](#), *DPP v Morgan*.

¹³⁷ Law Reform Commission (2019), [Knowledge or belief concerning consent in rape cases \(LRC 122-2019\)](#), Dublin.

¹³⁸ Department of Justice (2020), [Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences](#), Dublin. It is also known as the O'Malley report after the chair of the working group.

and support of victims in cases of human trafficking. As of 19 December 2022, this legislation had not yet been initiated in the Oireachtas.¹³⁹

In September 2022, the Irish government announced approval of the Work Life Balance and Miscellaneous Provisions Bill 2022 which, when enacted, will make provision for an entitlement to five days of paid annual leave for those who have suffered or are at risk of domestic violence.¹⁴⁰ The government indicated that Ireland will be one of the first countries in the EU to have introduced such a measure. There is no indication of when the Bill will be enacted, but as of 19 December, however, the Bill has completed its journey through Dáil Éireann and is currently at Committee Stage in the Seanad (i.e., stage 8 out of 11).

Akina Dada wa Africa (AkiDwA), a non-governmental organisation that focuses on migrant women living in Ireland, published a report on forced marriages in Ireland in November 2022.¹⁴¹ The Domestic Violence Act 2018 made forced marriage an offence in section 38, punishable by up to seven years of imprisonment. AkiDwA suggested that “forced marriage in Ireland is an entirely hidden problem” and was able to point only to anecdotal evidence as to the extent of the problem. Some of this evidence related to marriages that occurred outside of Ireland.

Finally, the Central Statistics Office published figures on crime victims in 2021 and suspected offenders in 2020.¹⁴² These figures, derived from Garda (police) statistics, show that in cases of non-sexual violent crime, men made up most victims in 2021 (67% in homicide cases, and 56% of assault cases). In cases of sexual violence, however, women made up 82% of recorded victims.

¹³⁹ A private member’s bill to amend the existing human trafficking legislation was introduced into Dáil Éireann on 27 January 2022 by Patrick Costello, T.D. It has not proceeded and is unlikely to do so.

¹⁴⁰ Ireland, Department of Children, Equality, Disability, Integration, and Youth (2022), '[Minister O’Gorman announces introduction of paid leave for victims of domestic violence](#)', Press release, 22 September 2022.

¹⁴¹ AkiDwA (2022), [Early and Forced Marriages in Ireland: A report on the practice and its prevalence](#), Dublin, November 2022.

¹⁴² Central Statistics Office (2022), [Recorded Crime Victims 2021 and Suspected Offenders 2020](#), Dublin, April 2022..

Developments in the implementation of the Convention on the Rights of Persons with Disabilities

CRPD policy and legal developments & implementation of the European Accessibility Act

Ireland ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) on 20 March 2018 despite becoming a signatory to the Convention in 2007. Ireland has not ratified the optional protocol and denies citizens with disabilities a mechanism to hold the Irish State accountable. Ireland's Initial State Report under Article 35 of the Convention submitted December 2020¹⁴³ notes the developments in public policy and legislation. Three policy frameworks promote the rights and inclusion of people with disabilities in Ireland: the Comprehensive Employment Strategy for People with Disabilities 2015-2024 (CES),¹⁴⁴ which sets a whole-of-government focus on employment for people with disabilities; the National Disability Inclusion Strategy 2017-2021¹⁴⁵ (NDIS extended to 2022), which addresses broader equality and includes issues; and the National Housing Strategy for Disabled People 2022-2027,¹⁴⁶ which has a particular emphasis on disabled people having choice and control over their living arrangements. In addition, strategies within the Pathways to Work Strategy 2021-2025,¹⁴⁷ the

¹⁴³ UN Committee on the Rights of Persons with Disabilities (2020), [Ireland's Initial Report under the Convention on the Rights of Persons with Disabilities](#), December 2020.

¹⁴⁴ Ireland, Department of Children, Equality, Disability, Integration and Youth (2019), [Comprehensive Employment Strategy for People with Disabilities](#), Dublin.

¹⁴⁵ Ireland, Department of Children, Equality, Disability, Integration and Youth (2020), [National Disability Inclusion Strategy \(2017-2021\)](#), Dublin.

¹⁴⁶ Government of Ireland (2022), [National Housing Strategy for Disabled People 2022-2027](#), Dublin.

¹⁴⁷ Ireland, Department of Social Protection (2021), [Pathways to Work Strategy 2021-2025](#), Dublin.

Roadmap for Social Inclusion 2020-2025,¹⁴⁸ Cost of Disability Report in Ireland (2021),¹⁴⁹ and the Disability Capacity Review to 2032¹⁵⁰ by the Department of Health all aim to work towards disability equality as ratified under the CRPD.

The EU (Accessibility of Websites and Mobile Applications of Public Sector Bodies) Regulations 2020 came into force in September 2020 ensuring that the websites and mobile apps of public bodies in Ireland are accessible to all people, including persons with disabilities. This is of particular importance as many public services including eHealth initiatives expand their services online post-pandemic. EU Directive 2019/882 (the European Accessibility Act, EAA) was adopted in 2019 to harmonise rules on accessibility for the private sector products and services to be effective from June 2025. Ireland is obliged to adopt its implementing measures by 28 June 2022 with those to become effective by 28 June 2025.

The Oireachtas Joint Committee on Disability Matters has published the report "Aligning Disability Funding with the United Nations Convention on the Rights of Persons with Disabilities Budget 2023 Pre-Budget Submission",¹⁵¹ in which they address various dimensions and issues to make recommendations about the way in which funding and expenditure can align to implement and improve Ireland's implementation of the CRPD across the life course.

Minister of State with Special Responsibility for Disability has committed to conduct research into gender-based violence against people with disabilities during 2022, however, nothing further than intention has progressed.¹⁵² The Minister for Children, Equality, Disability, Integration and Youth has announced that additional funding will be available to support children with disabilities access the State-funded Early Childhood Care and Education (ECCE) programme through the Access and Inclusion Model (AIM); this will enable a lower adult-child ratio and is expected to increase by 14% from September 2022.¹⁵³

¹⁴⁸ Government of Ireland (2020), [The Roadmap for Social Inclusion 2020-2025: Ambition, Goals, Commitments](#), Dublin.

¹⁴⁹ Ireland, Department of Social Protection (2021), [The Cost of Disability in Ireland – Research Report](#), Dublin.

¹⁵⁰ Ireland, Department of Health (2021), [Disability Capacity Review to 2032 - A Review of Social Care Demand and Capacity Requirements to 2032](#), Dublin.

¹⁵¹ Ireland, Joint Committee on Disability Matters (2022), [Aligning Disability Funding with the United Nations Convention on the Rights of Persons with Disabilities \(UNCRPD\)](#), Dublin.

¹⁵² Ireland, Department of Children, Equality, Disability, Integration and Youth (2022), [Minister Rabbitte to commission research into gender-based violence against people with disabilities](#), Press release, Dublin.

¹⁵³ Ireland, Department of Children, Equality, Disability, Integration and Youth (2022), [Minister O’Gorman allocates additional funding to support children with disabilities access State-funded pre-school](#), Press release, Dublin.

Ireland is in the final stages of debate of the Assisted Decision Making (Capacity) (Amendment) Bill 2022.¹⁵⁴ Final opposition amendments remain under debate to manoeuvre the Act in full compliance with the human rights standards of the CRPD e.g., removing the functional test of mental capacity from the Act to ensure supported decision-making. Once enacted, the amended act will commence in full the Assisted Decision-Making (Capacity) Act 2015, allowing the full operation of the Decision Support Service, and reform of Mental Health legislation to implement the Expert Group recommendations.

The National Disability Authority (NDA) annual review of the Comprehensive Employment Strategy for 2022¹⁵⁵ identifies key actions to be included in the final three-year action plan, such as, developing a return to work approach for people with (acquired) disabilities who have employment connection and require support via a vocational rehabilitation process; utilising the Pathways to Work strategy to ensure the OECD recommendations on employer engagement are implemented; supporting transition planning across the strategy, addressing the lack of career guidance for learners with disabilities in special and mainstream schooling; ensuring learning from ongoing projects is shared across systems; giving further consideration to the issues raised in the Cost of Disability Report, commencement of the early engagement process as recommended in the 2017 Make Work Pay Report; conducting a review of the reasonable accommodation fund and implement the recommendations from the review; and putting in place actionable measures to achieve the increased target of 6% of persons employed in the public service by the agreed date of 2024.¹⁵⁶

Most initiatives and policy measures taken to address COVID-19 and disability arose from challenges as they presented during 2020 and 2021. Ireland's continued use of institutional settings and residential care facilities such as nursing homes for persons with disabilities (particularly placing younger persons with disabilities in nursing homes) presented significant challenges; for instance, individuals were informed that they were not permitted to leave during the Covid-19 pandemic due to the risk of transmission that they might pose to other residents upon their return. The Oireachtas Special Committee on Covid-19 Response's report¹⁵⁷ identified the State's continued reliance on institutional models of care with systemic issues for 'vulnerable populations' as playing a significant role in the high levels of mortality of people with disabilities in nursing homes. Some of the challenges of this institutional model of care are highlighted in the report and in a draft working paper by the ResPoNCE

¹⁵⁴ Ireland, Houses of the Oireachtas, [Assisted Decision-Making \(Capacity\) \(Amendment\) Bill 2022](#) (Bill 59 of 2022).

¹⁵⁵ National Disability Authority (2022), [Comprehensive Employment Strategy NDA Year-end Assessment 2021](#), Dublin.

¹⁵⁶ National Disability Authority (2022), [Comprehensive Employment Strategy NDA Year-end Assessment 2021](#), Dublin, p. 6.

¹⁵⁷ Ireland, Houses of the Oireachtas (2020), [Final Report. Special Committee on Covid-19 Response](#), Dublin, para 14.

(Respecting People with Disabilities' Needs and Rights in Crisis and Emergency) Project.¹⁵⁸ Vaccine booster doses for COVID-19 continue to be offered for persons aged 65 or older, or age 12 or older with a weak immune system and adhere to the consent procedures.¹⁵⁹

During 2022, the government passed the Sick Leave Act 2022¹⁶⁰ which will legislate for a statutory sick pay scheme for all employees, phased in over a four-year period. Prior to this there was no mandatory sick leave entitlement within the private sector.

Ireland conducts vulnerability assessments of refugee applicants in accordance with Regulation 2(5) of the Reception Conditions Regulations that includes within the definition of vulnerable, a person with a disability. From February 2021 to January 2022, 686 vulnerability assessments were undertaken, and 438 refugee applicants were identified as having some form of vulnerability. Of those, 8% were persons with mental health concerns, and 2% identified as a person with a disability, however this is not disaggregated by nationality/ethnicity. Disabled Ukrainian refugees are entitled to the same healthcare services as people who live in Ireland and can apply to the Health Service Executive for a medical card.¹⁶¹ The priority for 2022 is providing solutions for longer term accommodation for Ukrainian refugees who are currently living in emergency accommodation settings (mostly hotels) in the context of a housing crisis in Ireland. It is unknown how many disabled Ukrainians are present in Ireland and the way in which they are accommodated in accessible accommodation nor in terms of how they are supported to access disability services. The most recent International Protection Accommodation Services (IPAS) statistic publication dates from January 2022 and only pertains to asylum applicants and not Ukrainian refugees despite IPAS having responsibility for

¹⁵⁸ ResPoNCE Project (2020), [Working paper on best practice to maintain States obligations under the UN Convention on the Rights of Persons with Disabilities during public health crises](#), Galway.

¹⁵⁹ Ireland, National Immunisation Office (2021), [Guidelines to support the consent process for COVID-19 vaccine](#) (website).

¹⁶⁰ Ireland, Houses of the Oireachtas, [Sick Leave Act 2022](#) (Act 24 of 2022).

¹⁶¹ Ireland, Health Service Executive (2022), [Healthcare services for Ukrainian nationals in Ireland](#) (website).

accommodating them as well. The government's update¹⁶² on accommodation for Ukrainian refugees from March 2022 is now dated as almost 62,000 Ukrainian refugees are present in Ireland.¹⁶³

CRPD monitoring at national level

The Department of Children, Equality, Disability, Integration and Youth is responsible for co-ordinating disability policy across government, and acts as the National Focal Point for the Convention in Ireland.

The Irish Human Rights and Equality Commission is the independent monitoring mechanism for the CRPD in Ireland, and work with the NDA to conduct this task. While the role of the NDA includes the provision of statistical data and policy advice, collaboration with Disabled Persons Organisations at this level would be welcome also to ensure the advocacy and lived experience of persons with disabilities. Instead, a Disability Advisory Committee was internally established to represent the experience of persons with disabilities and their organisations, however, there is currently no mental health perspective in this group.

To respond to the Initial State Report to the CRPD, a Disability Participation and Consultation Network (DCPN) was established in 2020 containing funded and non-funded members. Over a series of consultations focusing on 12 articles the DCPN submitted a response to the State's Draft Report in April 2021.¹⁶⁴ Overall, their consultative response highlighted the lack of centrality

¹⁶² Department of Children, Equality, Disability, Integration and Youth (2022), [Update on provision of accommodation for people fleeing Ukraine](#), Press release, Dublin.

¹⁶³ Central Statistics Office (2022), [Ukraine Hub Statistics](#), 6 November 2022.

¹⁶⁴ Disability Participation and Consultation Network (2021), [DCPN's Response to the State's Draft Report on the United Nations Convention on the Rights of Persons with Disabilities](#), Dublin.

and reflection of the realities of the everyday lives of persons with disabilities and the barriers and obstacles they encounter and endure. They draw attention to the lack of data around persons with disabilities which hinders advocacy and policy progress. It also condemns the aspirational content within the initial state report that is not accompanied by concrete implementation actions and targets. To this end, it highlights numerous urgent actions on themes such as equality, education, the cost of disability, respect as experts by experience, accessibility and mobility, employment, health and wellbeing, independence, and community living, and participating in public and political life, that are required to address alignment with the CRPD.¹⁶⁵

¹⁶⁵ Disability Participation and Consultation Network (2021), [DPCN's Response to the State's Draft Report on the United Nations Convention on the Rights of Persons with Disabilities](#), Dublin, p. 6.

Annex 1 – Promising Practices

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| Thematic area | EQUALITY AND NON-DISCRIMINATION Please provide one example of a promising practice to tackle discrimination against LGBTIQ people or discrimination on the grounds of socio-economic status, health status and physical appearance, such as awareness raising campaigns or training for relevant professionals. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2022 relevant to equality and non-discrimination of LGBTIQ people or on the other above-mentioned grounds, preferably one conducted by a national equality body. |
| Title (original language) | Campaign "Add the 10th" or "#addthe10th" |
| Title (EN) | |
| Organisation (original language) | |
| Organisation (EN) | The "Add the 10th" Alliance includes: All Together in Dignity Ireland, Association for Higher Education, Access and Disability, Community Action Network, Free Legal Advice Centres, European Anti-Poverty Network, Independent Living Movement Ireland, and Irish National Organisation of the Unemployed. |
| Government / Civil society | Civil Society |
| Funding body | Irish Human Rights and Equality Commission (Human Rights and Equality Grant Scheme) |
| Reference (incl. URL, where available) | Campaign #addthe10th |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | May 2022 to date (although many campaigners have been calling for a tenth prohibited ground of socio-economic discrimination since 2015 and earlier). |

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| Type of initiative | Campaign |
| Main target group | Government |
| Indicate level of implementation: Local/Regional/National | National |
| Brief description (max. 1000 chars) | The purpose of the "Add the 10th" campaign is to have socio-economic status recognized as the tenth ground of discrimination in Irish equality legislation, namely the Equal Status Act and the Employment Equality Act. The exclusion of socio-economic status represents a significant gap, and those with an experience of poverty " <i>constantly fall through the cracks</i> " of equality legislation according to "Add the 10th" activists. |
| Highlight any element of the actions that is transferable (max. 500 chars) | Transferable to any jurisdiction where socio-economic discrimination is not yet a recognised ground. |
| Give reasons why you consider the practice as sustainable (as opposed to 'one off activities') | The campaign has been ongoing for a number of years and involves a wide coalition of allies. |
| Give reasons why you consider the practice as having concrete measurable impact | In 2021, the Irish government announced a review of equality legislation, asking for views on adding a socio-economic ground. The actions of the campaigners behind "Add the 10th" and the ATD's 2019 report were instrumental in bringing this to the political agenda. |
| Give reasons why you consider the practice as transferable to other settings | The authors of the ATD's 2019 report 'hope that it can be an Irish contribution to a wider European debate and movement [...] which may, in the not-too-distant future, create a positive change for the peoples of all European Union Member States' (p. 7). |

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| and/or Member States? | |
| Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice. | The campaign involves many community activists who have given testimony as to how socio-economic discrimination has affected them personally. |
| Explain, if applicable, how the practice provides for review and assessment. | N/A |

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| Thematic area | RACISM, XENOPHOBIA AND RELATED INTOLERANCE Please provide one example of a promising practice to address racism and xenophobia. Please give preference to a promising practice about participation and engagement of Equality bodies and CSOs in addressing racism and hate crime. Where no such practice exists, please provide one example of a promising practice related more generally to combating racism, xenophobia, and related intolerances. |
| Title (original language) | Race Equality in the Higher Education Sector |
| Title (EN) | |
| Organisation (original language) | Higher Education Authority (HEA) |
| Organisation (EN) | |

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| Government / Civil society | Public Agency |
| Funding body | Government |
| Reference (incl. URL, where available) | Race Equality in the Higher Education Sector |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | September 2022 to date |
| Type of initiative | Implementation Plan |
| Main target group | Third level institutions |
| Indicate level of implementation: Local/Regional/National | National |
| Brief description (max. 1000 chars) | The Higher Education Authority (HEA) launched in September 2022 the Race Equality Implementation Plan 2022-2024 . The implementation plan responds to the findings of the HEA National Online Survey: Race Equality in Irish Higher Education Institutions , published at the end of 2021. The strategy sets out a series of national and institutional actions, and a timeline for implementation. The launch of the strategy followed a consultation with stakeholders. |
| Highlight any element of the actions that is transferable (max. 500 chars) | The process of conducting the survey, consultations and devising the implementation plan is transferable to a range of other public agencies. |
| Give reasons why you consider the | The implementation plan seeks to substantially change the working practices of third level institutions in Ireland concerning race equality, and the means by which they are held accountable. |

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| practice as sustainable (as opposed to 'one off activities') | |
| Give reasons why you consider the practice as having concrete measurable impact | Key performance indicators and timeline are set out in the plan. |
| Give reasons why you consider the practice as transferable to other settings and/or Member States? | The indicators and process draw on international best practice, including actions already recommended at European level. |
| Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice. | In March 2022, the HEA prepared a discussion paper proposing several actions to implement the recommendations included in the national survey report. The discussion paper was issued for feedback to the Athena SWAN Ireland Intersectionality Working Group, Higher Education Institutions, and the HEA National Committee for Equality, Diversity and Inclusion. This feedback has been incorporated into the implementation plan |
| Explain, if applicable, how the practice provides for review and assessment. | The HEA Athena SWAN Ireland Intersectionality Working Group, Higher Education Institutions, and the HEA National Committee for Equality, Diversity and Inclusion will each report on their activities under the plan. |

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| Thematic area | ROMA EQUALITY AND INCLUSION Please provide one example of promising practice in relation to the two topics addressed in the chapter: regarding the implementation of national action plans and regarding the legal or policy developments addressing Roma/Travellers equality and inclusion. |
| Title (original language) | Targeted supports to improve educational outcomes for Traveller and Roma students |
| Title (EN) | |
| Organisation (original language) | Department of Education |
| Organisation (EN) | |
| Government / Civil society | Government |
| Funding body | Government's 2022 Dormant Accounts Fund Action Plan (The Dormant Accounts Acts 2001-2012, together with the Unclaimed Life Assurance Policies Act 2003, provide a framework for the administration of unclaimed accounts in credit institutions). |
| Reference (incl. URL, where available) | Targeted supports to improve educational outcomes for Traveller and Roma students |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | Fourth trimester 2022 onwards |
| Type of initiative | Educational support for disadvantaged students |
| Main target group | Traveller and Roma students |

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| Indicate level of implementation: Local/Regional/National | National |
| Brief description (max. 1000 chars) | The Department of Education will fund 10 new home-school community liaison (HSCL) coordinator posts in 14 new DEIS post-primary schools supporting Traveller and Roma students. The HSCL coordinators will work primarily with Traveller and Roma students to improve school attendance, participation, retention, progression and outcomes. The DEIS (Delivering Equality of Opportunity in Schools) programme model includes schools reflecting higher levels of educational disadvantage experienced by students who have self-identified as Traveller or Roma, students in direct provision centres, and students who are experiencing homelessness. The model is applied to all schools and schools do not need to apply. The initiative also aims to support Traveller and Roma learners as they transition from early learning and care settings to primary school, and from primary to post-primary school and onwards. |
| Highlight any element of the actions that is transferable (max. 500 chars) | Several aspects of the initiative are transferable: the creation of home-school community liaison educators to multiply spaces for academic success, the DEIS programme's continuous monitoring of disadvantage levels in schools and the immediate intervention (even without school action), targeted investment in disadvantaged schools, targeted use of additional funding. |
| Give reasons why you consider the practice as sustainable (as opposed to 'one off activities') | Every education-related indicator for Traveller and Roma students is lower than their non-Traveller peers. Investment in sensitive indicators such as school attendance, participation, retention, progression, and outcomes means that some of the underlying problems are going to receive additional attention. Furthermore, transitions are key milestones in a student's education continuum, and as stages that present challenges in relation to the retention and attendance of some students, in particular Traveller and Roma student. Investment in these areas is expected to have a long-lasting impact. |
| Give reasons why you consider the practice as having concrete measurable impact | The initiative has concrete parameters: number of coordinators, number of schools reached, number of Traveller and Roma students served; additionally, parameters being targeted with the initiative are also specific: attendance, retention, progression. The information is going to be available to measure the concrete impact. |
| Give reasons why you consider the practice as | Marginalisation of Roma groups across Europe is still significant, and better education services have an enormous potential to increase opportunities for young members of those communities. Targeting |

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| transferable to other settings and/or Member States? | investments in selected environments to address selected indicators is a practice that can be implemented at different levels in every member state. |
| Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice. | N/A |
| Explain, if applicable, how the practice provides for review and assessment. | N/A |

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| Thematic area | INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION Please, provide one example of a promising practice related to the topics addressed in the chapter, i.e., in relation to data protection, and/or artificial intelligence systems. |
| Title (original language) | Expansion of Data Protection Commission |
| Title (EN) | |
| Organisation (original language) | Data Protection Commission (DPC) |
| Organisation (EN) | |

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| Government / Civil society | Government |
| Funding body | Government |
| Reference (incl. URL, where available) | Ireland, Department of Justice (2022), Government approves expansion of the Data Protection Commission , Press release, Dublin, 27 July 2022. |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | 2023 onwards |
| Type of initiative | Expansion of staffing and increased funding |
| Main target group | Not applicable |
| Indicate level of implementation: Local/Regional/National | National |
| Brief description (max. 1000 chars) | The Irish Government approved in July 2022 the expansion of the Data Protection Commission. The expansion includes the appointment of two additional Commissioners, reflecting the DPC's increased workload and investigative requirements. The existing Commissioner, Helen Dixon, will chair the widened DPC. The new Commissioners will be appointed by the Government following an open competition held by the Public Appointments Service. The funding for the DPC will at the same time be increased by €3 million, to reflect increased staffing costs, legal fees, and fit out of new premises, for a total of €26 million. |
| Highlight any element of the actions that is transferable (max. 500 chars) | The issue of inadequate supervisory authority resources is common to most national data protection authorities, and the European Data Protection Board (EDPB) has highlighted that this issue affects cross-border enforcement . |

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| <p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p> | <p>An increase in staffing and funding sets a new baseline for future years.</p> |
| <p>Give reasons why you consider the practice as having concrete measurable impact</p> | <p>Appointing additional Commissioners has the potential to allow the supervisory authority roles to be separated out. At the moment there is one Commissioner responsible for policy, investigative, public outreach, and technological awareness functions; splitting these responsibilities may permit greater specialisation.</p> |
| <p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p> | <p>Greater funding and staffing for the DPC may assist other supervisory authorities, particularly in small jurisdictions, to make the case for increased resources.</p> |
| <p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p> | <p>There is no formal stakeholder involvement, but the appointment of additional Commissioners comes in response to an extensive campaign from civil society led by the Irish Council for Civil Liberties.</p> |
| <p>Explain, if applicable, how the practice provides for review and assessment.</p> | <p>N/A</p> |

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| Thematic area | RIGHTS OF THE CHILD Please provide a promising practice for the related topics addressed in the chapter (i.e., the impact of poverty and exclusion on children and children and justice). |
| Title (original language) | Professional Diploma in Intermediary Studies |
| Title (EN) | |
| Organisation (original language) | Department of Justice and University of Limerick |
| Organisation (EN) | |
| Government / Civil society | Department of Justice and University of Limerick |
| Funding body | Department of Justice |
| Reference (incl. URL, where available) | University of Limerick's Professional Diploma in Intermediary Studies |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | September 2022 to September 2023 |
| Type of initiative | Training programme |
| Main target group | Children, vulnerable witnesses, victims of crime and sexual assault |
| Indicate level of implementation: Local/Regional/National | National |

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| Brief description (max. 1000 chars) | <p>The Department of Justice is partnering with the University of Limerick to implement a one-year new part-time course entitled 'Professional Diploma in Intermediary Studies'. Intermediaries are individuals with a background in speech and language therapy or a cognate discipline and registered health and social care practitioners. This course aims to enable them to work as registered intermediaries in the Irish justice system providing support for victims of crime. These new professionals will be qualified to work with vulnerable victims and children and successful graduates will be placed on a panel work within the Irish justice system. They will assist in communication between lawyers and vulnerable witnesses and children. The aim of this programme is to provide a more victim-focused approach within the Irish criminal justice system and will be the first programme of its kind in Ireland. Places for the academic year 2022-2023 are being funded by the Department of Justice.</p> |
| Highlight any element of the actions that is transferable (max. 500 chars) | <p>A robust training plan for a suitably qualified cohort of professionals to assist children and vulnerable witness within the criminal justice system.</p> |
| Give reasons why you consider the practice as sustainable (as opposed to 'one off activities') | <p>The course focuses on ensuring that intermediaries are equipped with communication and practical skills as well as providing training in methodologies and techniques. Having such expertise available will assist the administration of justice from the perspective of victims, lawyers, and the judiciary.</p> |
| Give reasons why you consider the practice as having concrete measurable impact | <p>The training and introduction of intermediaries will provide invaluable support to victims of crime and children within the Irish criminal justice system. It also has the potential to be extended beyond criminal law into family law and other areas where children are impacted by court decisions and where they may not have any support or guidance. Such intermediaries should be part of the proposed Family Court structure. This support is also in line with Ireland's obligations under UN Sustainable Goal no.16, access to justice for all.</p> |
| Give reasons why you consider the practice as transferable to other settings and/or Member States? | <p>Intermediaries of this nature would provide invaluable support to victims of crime, children, and vulnerable witnesses within the Irish Court system. Once the initial cohort have been trained and are fully functioning within the courts, other jurisdictions may wish to establish similar programmes to provide much needed support for victims.</p> |

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| Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice. | The Department of Justice has partnered with the University of Limerick to provide this training. |
| Explain, if applicable, how the practice provides for review and assessment. | N/A |

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| Thematic area | ACCESS TO JUSTICE – Victim’s Rights and Judicial Independence Please provide one example of a promising practice in relation to the topic address in the chapter: i.e. Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women. |
| Title (original language) | Supporting Victims of Crime Awareness Campaign at the National Ploughing Championship |
| Title (EN) | |
| Organisation (original language) | Department of Justice and An Garda Síochána |
| Organisation (EN) | |
| Government / Civil society | Government |
| Funding body | Irish Government |

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| Reference (incl. URL, where available) | Supporting Victims of Crime Awareness Campaign |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | 20-22 September 2022 |
| Type of initiative | Awareness Campaign |
| Main target group | General Population |
| Indicate level of implementation: Local/Regional/National | National |
| Brief description (max. 1000 chars) | The Department of Justice organised the Supporting Victims of Crime Awareness Campaign during the three days of the National Ploughing Championship, which is an important yearly event for agricultural and rural communities in Ireland. Several agencies from the Department of Justice (Irish Prison Service, Courts Service, Legal Aid, and Victims of Crime Helpline) as well as An Garda Síochána set up stands to speak to attendees about the rights of victims of crime and the supports available to them as set out in Ireland's Victims' Charter. The Gardai emphasised that no victim should be afraid to report a crime; the Courts Service pointed to the technological developments that make giving evidence easier; the Prison Service spoke of their liaison efforts regarding the management of offenders; and the Legal Aid Board gave information about their services for victims. |
| Highlight any element of the actions that is transferable (max. 500 chars) | The Ploughing Championship has no link to criminal justice but is attended by huge crowds from all around Ireland. As such, given the massive and diverse attendance, it is a really positive opportunity to reach into communities. The agencies were able to engage in face-to-face interactions with large numbers of individuals, and to explain how they support victims of crime. This approach can be used and replicated in any country. |

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| <p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p> | <p>This and other cultural events that have no ostensible connection to criminal justice provide an excellent opportunity for connections between the community and criminal justice agencies. This awareness campaign can be replicated frequently at all such cultural events.</p> |
| <p>Give reasons why you consider the practice as having concrete measurable impact</p> | <p>The number of persons attending these cultural events is measurable, as is the number of persons met by the agencies at the events, the number of leaflets, etc. that are handed out, and the number of individual meetings that occur. There is also the opportunity for immediate feedback from members of the community, including those who have themselves been victims of crime.</p> |
| <p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p> | <p>All countries have cultural events that attract a large proportion of the adult population of the country. As such they provide a unique opportunity for criminal justice awareness campaigns to reach a much larger proportion of the population than would be the case with other such campaigns.</p> |
| <p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p> | <p>Government representatives from different institutions within the Department of Justice as well as representatives from An Garda Síochána are partnering in this effort.</p> |
| <p>Explain, if applicable, how the practice provides for review and assessment.</p> | <p>N/A</p> |

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| Thematic area | <p>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) Please provide one example of a promising practice of national monitoring bodies (e.g., a well-run outreach campaign, an inclusive survey, a successful effort or initiative to improve legislation, etc.) in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities. Where no such practice exists, please provide one example of a promising practice in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities, focussing on projects and programmes implemented with EU funding.</p> |
| Title (original language) | Disability Advisory Committee (partial renewal) |
| Title (EN) | |
| Organisation (original language) | Irish Human Rights and Equality Commission |
| Organisation (EN) | |
| Government / Civil society | The Irish Human Rights and Equality Commission is an independent public body accountable to the Oireachtas (parliament). |
| Funding body | Irish State |
| Reference (incl. URL, where available) | Disability Advisory Committee's partial renewal |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | 2019 (ongoing) |

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| Type of initiative | Inclusion of lived experience of disability in monitoring process of CRPD implementation |
| Main target group | Disabled people |
| Indicate level of implementation: Local/Regional/National | National |
| Brief description (max. 1000 chars) | The Irish Human Rights and Equality Commission is in the process of renewing its Disability Advisory Committee, an organ in charge of monitoring the implementation of the CRPD in Ireland. Five members are going to be appointed and, while the committee has been disability inclusive and there is no specific law concerning requirements for membership nor proportional representation, the Committee aims to have at least 75% of members with a disability. |
| Highlight any element of the actions that is transferable (max. 500 chars) | Promoting an inclusive understanding of disability enables a diversity of people who identify as disabled to participate, not solely the definition provided under the Disability Act 2005, which relies more on a medical understanding of disability. |
| Give reasons why you consider the practice as sustainable (as opposed to 'one off activities') | The practice is sustainable as it opens membership to persons with lived experience across a range of disabilities in Irish society. However, the practice is in jeopardy of being adjusted as the Minister for Children, Equality, and Disability has proposed amendments within the Assisted Decision-Making (Capacity) Bill 2022 that would also amend the Irish Human Rights and Equality Commission Act 2014. The proposal is to insert in section 18(ii) after subsection (3) a target number of persons with disabilities and to change the meaning of disability in accordance with the Disability Act 2005. |
| Give reasons why you consider the practice as having concrete measurable impact | The Irish Human Rights and Equality Commission has been promoting an inclusive understanding of disability in accordance with the CRPD to date and extension of membership to persons with lived experience of disability. This impacts in positive ways the lives of people with disability protected under the CRPD; however, the proposed regression to the definition of disability as understood within the Disability Act 2005, should the proposed amendment be passed would, for example, not include users and survivors of psychiatry as persons eligible for membership. |
| Give reasons why you consider the practice as transferable to | The Disability Advisory Committee is an important institution to guarantee permanent monitoring of the CRPD at the national level, and CRPD member states can adopt and promote, as Ireland has been doing, the language and understanding of disability as proposed within the UNCRPD. |

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| other settings and/or Member States? | |
| Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice. | <p>The Disability Advisory Committee ensures the direct participation of persons with disabilities in the monitoring process of how the Convention is applied in Ireland. The role of the Disability Advisory Committee is to assist and advise the Commission on matters related to its function of keeping under review the adequacy and effectiveness of law and practice in the State relating to the protection of people with disabilities.</p> |
| Explain, if applicable, how the practice provides for review and assessment. | <p>N/A</p> |

Annex 2 – Case Law

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| Thematic area | EQUALITY AND NON-DISCRIMINATION Please provide one high court decision addressing discrimination against LGBTIQ people or on the grounds of socio-economic status, health status and physical appearance (not related to health or disability or to other grounds like ethnic origin, religion). Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report. |
| Decision date | 2 June 2022 |
| Reference details | THE AGRICULTURAL TRUST and MS LYNNE BRIEN, Determination No. <u>EDA2215</u> . |
| Key facts of the case (max. 500 chars) | Ms Lynne O'Brien complained that an individual (PK) in her workplace sexually harassed her and told her that it was his mission to 'turn her straight'. After one particular incident, she reported to her line manager who conducted an investigation; PK was given a written warning and she was advised that he was working from home. However, Ms O'Brien had not understood that this was only a temporary arrangement and was surprised when PK returned to work. As a result, she ultimately felt that she had no alternative but to resign and seek alternative work. |
| Main reasoning/argumentation (max. 500 chars) | Ms O'Brien argued that the investigation of the incident was inadequate, there were no meaningful supports put in place, and the sanction imposed on PK was too lenient. |
| Key issues (concepts, interpretations) clarified by the case (max. 500 chars) | In its decision, the Labour Court distinguished between (1) the fact that Ms O'Brien had indeed been the target of harassment (on the gender ground), which was admitted by the respondent (her workplace), and (2) the defence which is available to respondents, that they took such steps as are reasonably practicable to prevent sexual harassment and to 'reverse its effects' where harassment has taken place. |

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| Results (sanctions) and key consequences or implications of the case (max. 500 chars) | In this case, the Labour Court held that the respondent had done all it could to prevent harassment from happening, and had dealt appropriately with the incident when it arose. Ms O'Brien's claim therefore failed. |
| Key quotation in original language and translated into English with reference details (max. 500 chars) | "The [...] incident occurred when both PK and the Complainant were working late one evening in the office. The Complainant told the Court that PK told her on that occasion that his mission was to 'turn her straight'." |

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| Thematic area | RACISM, XENOPHOBIA AND RELATED INTOLERANCE Please provide the most relevant <u>high court</u> decision concerning the application of <u>either</u> the Racial Equality Directive or the Framework Decision on racism and xenophobia, addressing racism, xenophobia, and other forms of intolerance more generally. |
| Decision date | No case law has been identified for this thematic area. |

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| Thematic area | ROMA EQUALITY AND INCLUSION Please provide the most relevant high court decision addressing violations of fundamental rights of Roma and Travellers. |
| Decision date | 31 January 2022 |
| Reference details | Clare County Council v McDonagh & Anor [2022] IESC 2 |
| Key facts of the case (max. 500 chars) | The McDonagh family was seeking Traveller-specific accommodation, as members of a recognised ethnic minority, subjected to racial discrimination. Clare County Council argued that their occupation |

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| | <p>of the land constituted unauthorised development under planning law. The High Court granted injunctive relief against the McDonaghs and this was upheld by the Court of Appeal, however, the Supreme Court granted a stay on these orders while an appeal was heard. In November 2021, the Supreme Court granted the Irish Human Rights and Equality Commission liberty to intervene as amicus curiae in this matter. The Supreme Court heard this case in December 2021, and the judgment was to discharge the mandatory interlocutory orders granted by the High Court.</p> |
| <p>Main reasoning/argumentation (max. 500 chars)</p> | <p>Justice Hogan has clarified that before housing authorities (who will also be local authorities and planning authorities, that is city or county councils) can be granted interlocutory trespass and planning orders evicting people in housing need from their living places, the court must carry out a proportionality analysis as to the objective necessity for the orders sought.</p> <p>This is because those orders may deprive such persons of their 'home' which they have a right to have respected by the organs of the State under Article 8 of the European Convention on Human Rights (ECHR) and will violate their 'dwelling' which is inviolable, save in accordance with law, under Article 40.5 of the Irish Constitution.</p> |
| <p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p> | <p>Central to this appeal was the Supreme Court's examination of whether a local authority was obliged to consider the impact of eviction on persons such as the applicants and their prospects for obtaining lawful accommodation elsewhere, as well as the Council's own interests, powers and obligations both as landowner and as housing and planning authority.</p> <p>The Supreme Court is clear that the Local Authority is the housing body, and it has an obligation to offer suitable accommodation. This obligation must be fulfilled rather than side-stepped. The ruling sets out that it is ultimately for a Council to convince the courts in any future cases that they have fulfilled their obligations, and for the Courts to assess the proportionality of the Council's actions.</p> |
| <p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p> | <p>The Supreme Court upheld the Traveller family's appeal against their eviction, with five Supreme Court justices ruling unanimously in favour of the McDonagh family. The case focused on their unauthorised presence on a Clare Council-owned site, having not been provided with appropriate accommodation by the Council elsewhere.</p> |

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| | This decision can significantly impact institutional racial discrimination against the Traveller Community. The role of the Irish Human Rights and Equality Commission as an Amicus Curiae in supporting this case can be a significant step in combatting systemic and institutional racism. |
| Key quotation in original language and translated into English with reference details (max. 500 chars) | "This judgment is being delivered just over 100 years since the first Provisional Government for an independent Irish State was called into being. It is nonetheless salutary to reflect that one hundred years later a distinct group – the Irish Traveller community – still remains a vulnerable minority at the margins of Irish society. The members of that community have struggled for recognition of their own cultural identity and way of life." Mr. Justice Hogan |

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| Thematic area | ASYLUM, VISAS, MIGRATION, BORDERS AND INTEGRATION Please provide the most relevant high court decision – or any court ruling – relating to the processing of personal data by new technologies in asylum, migration and border management delivered in 2022 (on Eurodac, SIS and VIS). |
| Decision date | No case law has been identified for this thematic area. |

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| Thematic area | INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION Please provide the most relevant high court decision related to the topics addressed in the chapter (i.e. data protection, and/or artificial intelligence systems). |
| Decision date | 24 May 2022 |
| Reference details | Doolin v The Data Protection Commissioner [2022] IECA 117 |
| Key facts of the case (max. 500 chars) | The appellant was employed at a hospice which installed CCTV cameras for crime and security purposes. While investigating graffiti in a staff tearoom the hospice accessed CCTV footage and discovered that the appellant was taking unauthorised breaks. The hospice used this information to |

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| | take disciplinary action against the appellant. The appellant complained to the Data Protection Commission (DPC), which found that using this information (but not the CCTV footage itself) did not constitute further processing of personal data for a different purpose. The appellant appealed this decision. |
| Main reasoning/argumentation (max. 500 chars) | The Court of Appeal found that the appellant’s personal data was processed not just when the CCTV footage was recorded and viewed but also when information derived from the footage (i.e. when the appellant was in the staff tearoom) was used to take action against him. This constituted processing for a different purpose than the stated one of security. The Court of Appeal then considered whether disciplinary action was a compatible purpose. It found that it was not, as the appellant had not been notified that the CCTV could be used for this purpose and had no basis to expect such use. |
| Key issues (concepts, interpretations) clarified by the case (max. 500 chars) | The Court of Appeal applied the Article 29 Working Party Opinion on Purpose Limitation and cited with approval its four part test for a compatible purpose, i.e. that: “In particular, account should be taken of the following key factors: - the relationship between the purposes for which the personal data have been collected and the purposes of further processing; - the context in which the personal data have been collected and the reasonable expectations of the data subjects as to their further use; - the nature of the personal data and the impact of the further processing on the data subjects; - the safeguards adopted by the controller to ensure fair processing and to prevent any undue impact on the data subjects.” |
| Results (sanctions) and key consequences or implications of the case (max. 500 chars) | This judgment is important in rejecting a narrow and rather unusual interpretation by the DPC of the concept of further processing and the purpose limitation principle. It also confirms that it does not matter for the purpose limitation principle whether the initial accessing of personal data (viewing the CCTV) was for a legitimate purpose. |
| Key quotation in original language and translated into English with reference details (max. 500 chars) | “The fact that the viewing of the CCTV here was for the purpose of attempting to detect the perpetrator of the offensive graffiti and damage to Hospice property is entirely irrelevant to the incidental observation of Mr. Doolin taking unauthorised breaks ... [T]here was absolutely no evidence that the taking of such breaks represented a security issue in itself. The logical conclusion of that argument is that, if, for example, another employee was picked up on the camera smoking |

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| | a cigarette in the corridor outside the tea room ... the CCTV could equally be availed of to discipline that person." [Judgment, paras. 89-90] |
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| Thematic area | RIGHTS OF THE CHILD Please provide the most relevant high court decision for the related topics addressed in the chapter. |
| Decision date | 23 May 2022 |
| Reference details | The People (at the suit of the DPP) v FN (a minor) [2022] IESC NN |
| Key facts of the case (max. 500 chars) | On 13 April 2019, an incident occurred while two boys (14 and 6) were 'playacting' in a field near the victim's home. The accused pulled down the younger boys underpants and smacked him on the bare buttocks several times. A jury at Central Criminal Court returned a verdict of guilty of indecent assault. This was upheld by the Court of Appeal. The Supreme Court was asked to address whether indecent assault requires intent not just for assault but for indecent assault. The Court held the crime of indecent assault is objective. No evidence of sexual motive or intent is necessary. |
| Main reasoning/argumentation (max. 500 chars) | Counsel for the accused argued that in order to constitute indecent assault there should need to be an 'express sexual purpose' or special intent. The majority decision was that three elements were required: Intentionally assaulting the victim, proven on an objective standard to be indecent, and that the accused's purpose was to assault in these indecent purposes. |
| Key issues (concepts, interpretations) clarified by the case (max. 500 chars) | This case sought to clarify where there is ambiguity in the circumstances of an alleged sexual assault, whether the prosecution must prove an intention not only to commit an assault, but also an intention to commit an indecent one. It determines that the crime of sexual assault is an objective one and no evidence of sexual motive is necessary. |

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| Results (sanctions) and key consequences or implications of the case (max. 500 chars) | <p>Dissenting Justice Hogan noted 'it does not appear that there are any reported cases where the precise contours of this offence have been explained by the courts in this jurisdiction since 1922' [Judgement, para 20]. Under s.2 (1) of the Criminal Law (Rape) (Amendment) Act 1990 the common law offence of indecent assault shall be 'known as sexual assault'. S 3 (1) Sex Offenders Act 2001, imposes reporting requirements for sexual assault. The strict objective interpretation may lead to reporting requirements where there is 'no clear evidence of sexual offending' and irrespective of the age/maturity of the accused. As noted by Justice Charleton, guidelines would be welcomed by the judiciary and lawyers.</p> |
| Key quotation in original language and translated into English with reference details (max. 500 chars) | <p>'... [M]ultiple changes to both statutory provisions and the common law and procedure have left a mosaic of disparate provisions that increasingly challenge understanding and accuracy in the much litigated area of sexual violence and criminal procedure. ... sexual offences law and procedure, which even more seriously impact on victims, is left to be assembled by legal experts from disparate sources: and, even then, with possible doubt haunting the mind as to the accuracy of the result.... A code would assist since thereby the potential for serious error would be considerably lessened.'" [Judgement, para 30]</p> |

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| Thematic area | ACCESS TO JUSTICE – Victim’s Rights and Judicial Independence Please provide the most relevant high court decision related topics addressed in the chapter (i.e the Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women). |
| Decision date | 14 July 2022 |
| Reference details | People (DPP) v. Gheorghe Goidan [2022] IECA 202 |
| Key facts of the case (max. 500 chars) | Appellant appealed his conviction on multiple counts of rape, partly on the grounds that the second complainant had been allowed to give evidence by video-link. She lived abroad at the time of the trial and missed her flight home due to a family emergency. On an application from the prosecution, she was permitted to give her evidence by video link. |

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| Main reasoning/argumentation (max. 500 chars) | Appellant argued that the second complainant should be required to give her evidence in person in order that the trial be fair, that she had no good reason not to do so, and that the police had failed to properly enquire into her availability for trial. |
| Key issues (concepts, interpretations) clarified by the case (max. 500 chars) | Whether allowing a rape complainant to give evidence by video link, as opposed to in person, constituted a denial of the appellant's right to a fair trial. |
| Results (sanctions) and key consequences or implications of the case (max. 500 chars) | Court of Appeal ruled that there was no basis for the appellant's objection to the second complainant giving her evidence by video link, and rejected this ground of appeal. The court also rejected the appellant's other grounds of appeal and upheld his convictions. The court went on to reject the appellant's appeal against the severity of sentence (a total of imprisonment for twenty years). |
| Key quotation in original language and translated into English with reference details (max. 500 chars) | "There is no basis for saying there is any infringement of the right to constitutional justice by virtue of the fact that a witness is heard remotely or by video link.... The norm will, of course, remain that evidence will be given <i>viva voce</i> in court. Where there is a coherent and rational basis, as here, on the evidence as to why the witness could not attend the judge properly exercised her discretion in permitting the evidence to be given in this way." [Judgement, para. 29] |

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| Thematic area | DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD) Please provide the most relevant High Court decision, which quoted the CRPD or prominently referred to the CRPD in the reasoning. |
| Decision date | 10 August 2022 |
| Reference details | Child and Family Agency and A v The Adoption Authority of Ireland and C and Z, [2022] IECA 196 |

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| Key facts of the case (max. 500 chars) | <p>The case is one of appeal to grant adoption to foster parents of a 17 year old girl 10 weeks from her 18th birthday. The foster mother Ms. A applied to adopt the foster child, Ms B, she has cared for since birth. However, the birth mother Ms. C did not grant consent for the adoption.</p> |
| Main reasoning/argumentation (max. 500 chars) | <p>The counsel argued that Ms. C had retained a close relationship with her daughter over the years and that Ms A will continue to care for the child after she turns 18 years of age or should Miss B wish to live with Ms C that she is also willing and able to provide her with a home and look after her. The trial judge added that he did not see what difference adoption at this time would achieve as the child is loved by all those around her and involved in caring for her.</p> |
| Key issues (concepts, interpretations) clarified by the case (max. 500 chars) | <p>Ms B has a mild learning difficulty. Ms C proposed wardship rather than adoption to govern the future relationships of Miss B. However, the judge referred to the process of wardship as cumbersome with the effect of removing all autonomy and the capacity of Ms B to make any decision concerning her own future life and care. He also noted that it removed her autonomous right and entitlement to have her stated wishes and preferences and references the UNCRPD in this regard.</p> |
| Results (sanctions) and key consequences or implications of the case (max. 500 chars) | <p>The court of appeal favoured the adoption order to enable Ms B the opportunity of having full legal status with the family who have reared her from the age of three and a half months.</p> |
| Key quotation in original language and translated into English with reference details (max. 500 chars) | <p>"I am satisfied that the proposal on behalf of the birth mother that the wardship jurisdiction of the High Court should be deployed for the purposes of managing the future care and welfare of the minor amounts to a disproportionate measure in the instant case. There was no evidence that such an application would be successful if every made. The wardship structure is particularly cumbersome..It fails to have any adequate regard to her actual capacity and her autonomous right and entitlement to have her stated wishes respected."</p> |