



**Submission to inform the
Department of Justice and
Equality's consultation on
a new National Traveller
and Roma Inclusion
Strategy 2017-2020**

FLAC, May 2017

About FLAC

FLAC (Free Legal Advice Centres) is a non-governmental, voluntary organisation which exists to promote the fundamental human right of access to justice. FLAC focuses on the use of law as a tool for social change and on the protection of economic, social and cultural rights. FLAC is an affiliate member of the FIDH.

In our work, we identify and make policy proposals on how the law excludes marginalised and disadvantaged people, principally around social welfare law, personal debt & credit law and civil legal aid. We advance the use of law in the public interest and we co-ordinate and support the delivery of basic legal information and advice to the public for free and in confidence. FLAC is also a partner of the JUSTROM programme.

You can download/read FLAC's policy papers at
<http://www.flac.ie/publications/policy.html>

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Recommendations

- **Make the Public Sector Duty a core consideration in the process of developing, implementing and monitoring the Department's strategy for the next three years and provide a model of best practice for other public bodies more generally;**
- **As part of the strategy, ensure that all public bodies carry out an assessment of the human rights and equality issues relevant to their functions, including in particular an assessment of the human rights and equality issues that impact on Travellers and Roma relevant to their functions, and the policies, plans and actions being taken or proposed to be taken to address those issues;**
- **Include "Access to Justice" as an additional theme in the strategy;**
- **Provide additional support to the JUSTROM programme and its partners to ensure that the project can be sustained and delivered effectively;**
- **Designate the Social Welfare Appeals Office and Workplace Relations Commission as "prescribed" tribunals for the purposes of Section 27(2)(b) of the Civil Legal Aid Act 1995;**
- **Ensure that civil legal aid is available to Travellers facing eviction proceedings;**
- **Amend Section 14 of the Equal Status Acts 2000 – 2015 to ensure that an effective remedy is available for discrimination that has a legislative basis;**
- **Broaden the scope of the Equal Status Acts 2000 – 2015 to include the functions of public bodies most relevant to Roma and Travellers;**
- **Undertake a review of the Habitual Residence Condition so as to establish whether it has a discriminatory impact on access to social welfare, particularly among Travellers and Roma.**

Introduction

FLAC welcomes the opportunity to contribute to the Department of Justice and Equality's consultation on a new National Traveller and Roma Inclusion Strategy. In this submission, FLAC seeks to identify the issues for Roma and Travellers in Ireland which we believe are most important to address over the next three years.

Public Sector Duty

FLAC notes that the previous National Traveller and Roma Integration Strategy covered the period 2011–2016. Since then, the Public Sector Duty has been introduced pursuant to section 42 of the Irish Human Rights and Equality Act 2014. The Public Sector Duty provides one of the most important national mechanisms for mainstreaming racial and ethnic equality and protecting the human rights of ethnic minorities, such as Travellers and Roma. The new National Traveller and Roma Inclusion Strategy 2017-2020 is a key instance of strategic planning by the Department to which the Public Sector Duty applies. The new strategy is therefore a very welcome and important measure by the Department of Justice and Equality in terms of meeting its obligations under the duty, in particular its obligations towards Travellers and Roma.

The strategy should show how the duty has influenced the process for developing the strategy and be reflected in the outcome. Compliance with the Public Sector Duty must therefore be evident from the published strategy and should articulate how the requirements of the Public Sector Duty are to be met on an ongoing basis. FLAC urges the Department of Justice & Equality to make the Public Sector Duty a core consideration in the process of developing, implementing and monitoring the Department's strategy for the next three years and to provide a model of best practice for other public bodies more generally.

The Public Sector Duty specifically requires public bodies to carry out an assessment of the human rights and equality issues relevant to its functions and the policies, plans and actions in place or proposed to be put in place to address those issues. In fulfilling their duties under the 2014 legislation, public bodies must consider the human rights and equality impact, including the impact on Travellers and Roma, of their policies, services, budgets, procedures and practices. The Public Sector Duty requires public bodies to take a proactive approach to tackling institutional discrimination against Travellers and Roma, and promote the mainstreaming of an equality perspective in all their functions. Such an approach, which should be progressed through the new strategy, has the potential to ensure that Travellers and Roma in all their diversity are at the heart of all public action, policy and procedure, and to complement actions which are required under European Union law.

Recommendations

- **Make the Public Sector Duty a core consideration in the process of developing, implementing and monitoring the Department's strategy for the next three years and to provide a model of best practice for other public bodies more generally;**

- **As part of the strategy, ensure that all public bodies carry out an assessment of the human rights and equality issues relevant to their functions, including an assessment of the human rights and equality issues that impact on Travellers and Roma relevant to their functions, and the policies, plans and actions being taken or proposed to be taken to address those issues.**

Access to Justice

Access to justice enables individuals to protect themselves against infringements of their rights, to remedy civil wrongs, and to hold executive power accountable.¹ Knowledge of legal rights, entitlements and services and access to legal information, advice and representation would empower Travellers and Roma to enforce their rights, challenge inequalities and combat social exclusion. Accordingly, FLAC recommends adding another theme to those already proposed, namely *Access to Justice*.

The right of access to justice is enshrined in Articles 6 and 13 of the European Convention on Human Rights (ECHR) and Article 47 of the EU Charter of Fundamental Rights, which guarantee the rights to a fair trial, to an effective remedy and to legal aid to those who lack sufficient resources so far as this is necessary to ensure effective access to justice. Access to justice is also reflected in our constitutional system of justice, where access to the courts is guaranteed.

Article 7 of the Racial Equality Directive obliges EU Member States to ensure that judicial and/or administrative procedures are available to victims of racial discrimination to enforce their right to equal treatment.² However, the effectiveness of such procedures is undermined where victims are reluctant or unable to use them. Several factors have been noted that act as a disincentive to using complaints procedures, including failure by racial and ethnic minorities to recognise discrimination.³

Research conducted by the Fundamental Rights Agency across the European Union has highlighted that awareness of the national legislative and procedural framework giving effect to the prohibition on discrimination appears to be low among racial minorities.⁴ This, in turn, affects the degree to which victims pursue their rights and reduces the frequency with which the prohibition of discrimination is enforced and remedies are obtained.

The difficulty of Travellers, Roma and others from historically disadvantaged backgrounds to pursue remedies through existing systems increases their vulnerability to poverty and violations of their

¹ European Union Agency for Fundamental Rights and Council of Europe (2016) *Handbook on European law relating to access to justice*, Luxembourg: FRA and CoE, p.16.

² Council Directive 2000/43/EC.

³ European Union Agency for Fundamental Rights (2012) *The Racial Equality Directive: application and challenges*, Luxembourg: FRA, p.25.

⁴ European Union Agency for Fundamental Rights (2012) *The Racial Equality Directive: application and challenges*, Luxembourg: FRA, p.25.

rights. In turn, their increased vulnerability and exclusion further hamper their ability to use justice systems. The UN Special Rapporteur on extreme poverty and human rights has noted that certain groups that suffer from structural discrimination and exclusion and are disproportionately represented among the poor, particularly ethnic minorities such as Travellers and Roma, encounter additional barriers to accessing justice.⁵ Those difficulties are multiplied for women living in poverty, who experience compounded discrimination and disempowerment, not to mention financial constraints.

In Ireland, Roma and Travellers face deeply embedded and structural discrimination, including as regards their access to education, health care, social welfare, employment and housing.⁶ Additionally, Roma and Traveller women are exposed to multiple and intersectional forms of discrimination on grounds of gender and ethnicity and can be subjected to various forms of violence against women, including trafficking, domestic violence and child, early and forced marriage. For example, the Commissioner for Human Rights of the Council of Europe, Nils Muižnieks, has observed that Roma women in particular report instances where they are not allowed to enter shops or other services, and are subjected to racist comments by service providers.⁷

The European Court of Human Rights has specifically noted on several occasions that, as a result of their history, Roma⁸ have become a specific type of disadvantaged and vulnerable minority who therefore require special protection, as indicated by the relevant Court case-law.⁹ According to the former Council of Europe Commissioner for Human Rights, Thomas Hammarberg, improving the position of Roma and Travellers to challenge discrimination requires special efforts targeting the specific situation of these persons: for instance, awareness-raising initiatives for Roma and Travellers on their right to non-discrimination and the remedies available, and for the legal community on discrimination faced by Roma and Travellers.¹⁰

JUSTROM Project

In March 2016, the Committee of Ministers of the Council of Europe adopted a Thematic Action Plan for the inclusion of Roma and Travellers that includes in its first priority the improvement of access to justice of Roma and Travellers and highlights Roma women, youth and children as vulnerable groups

⁵ UN Special Rapporteur on extreme poverty and human rights (2012) *Report of the Special Rapporteur on extreme poverty and human rights – obstacles to access to justice for persons living in poverty*, Geneva: OHCHR, p.7.

⁶ In January 2016, the UN Committee on the Rights of the Child expressed concern about the structural discrimination against Traveller and Roma children, including as regards their access to education, health and an adequate standard of living. UN Committee on the Rights of the Child (2016) *Concluding observations on the combined third and fourth reports of Ireland*, Geneva: OHCHR, p.16.

⁷ Commissioner for Human Rights of the Council of Europe (2017) *Report by Nils Muiznieks following his visit to Ireland from 22 to 25 November 2016*, Strasbourg: CoE, p.10.

⁸ 'Roma' is an umbrella term used by the Council of Europe which includes groups of people who have more or less similar cultural characteristics including Travellers.

⁹ *D.H. and Others v. the Czech Republic*, application no. 57325/00, Grand Chamber judgment of 13 November 2007, para.182.

¹⁰ Council of Europe Commissioner for Human Rights (2012) *Human rights of Roma and Travellers in Europe*, Strasbourg: CoE, p.91.

that need particular attention.¹¹ In order to empower the most vulnerable among Roma and Travellers, and strengthen their protection against all forms of discrimination, the Council of Europe has committed to implementing a pilot project, in cooperation with the European Commission, to improve the access of Roma and Traveller women to justice in Bulgaria, Greece, Ireland, Italy and Romania.

As part of the JUSTROM programme (Joint Programme on Access of Roma and Traveller Women to Justice), legal information, advice and / or representation is provided in two legal clinics (in Dublin city centre and Tallaght respectively) with the objective of further facilitating access to courts and court proceedings at the national and international level. FLAC is supporting the rollout of the JUSTROM project in Ireland and 3 of the 5 contractors to the project (paid directly on a consultancy basis by the Council of Europe) are based in the FLAC office. However FLAC is receiving no financial support for this work and there are several aspects of the project that have no funding allocated to them despite being essential for the delivery of the work programme. This includes the cost of office facilities, IT facilities and support, transport costs to the clinics and funding for awareness raising sessions, of which there are supposed to be four per year. FLAC is concerned that low levels of investment in the programme may hinder its success in Ireland.

The Department of Justice & Equality is an associate partner to the JUSTROM project and hosted its launch in Ireland in October 2016. The provision of additional support from the Department in terms of financial resources and other engagement would assist in effectively implementing the activities planned as part of the pilot project and ensure that the project can be delivered in full and carry on into the future.

It is relevant to note that Article 7 of the Racial Equality Directive obliges EU Member States to ensure, in accordance with national law, that associations, organisations or other legal entities may engage in judicial or administrative proceedings on behalf of, or in support of victims, with the victim's permission. The role of NGOs is particularly valuable in facilitating the enforcement of anti-discrimination law, however their ability to provide assistance or engage in litigation is dependent upon expertise and resources. The EU's Fundamental Rights Agency has stated that one of the ways by which the existing frameworks to combat discrimination on the grounds of racial and ethnic origin could be strengthened is to widen access to complaints mechanisms, including by increasing funding for voluntary organisations in a position to assist victims.¹²

Recommendations

- **Include "Access to Justice" as one of the themes of the strategy;**
- **Provide additional support to the JUSTROM programme and its partners to ensure that the project can be sustained and delivered effectively.**

¹¹ Committee of Ministers, *Thematic Action Plan on the Inclusion of Roma and Travellers (2016-2019)*, available.

¹² European Union Agency for Fundamental Rights (2012) *The Racial Equality Directive: application and challenges*, Luxembourg: FRA, p.25.

Civil legal aid scheme

Some of the most prevalent legal issues affecting Travellers and Roma are excluded from the remit of the Legal Aid Board. The Legal Aid Board is precluded from providing representation before quasi-judicial tribunals dealing with social welfare appeals, as well as employment and equality cases. In 2011, the former UN Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, during a fact-finding mission to Ireland, noted her concern that “several areas of law that are particularly relevant for people living in poverty” are excluded from the scope of the Legal Aid Board.¹³ She expanded on this point in a 2012 report on access to justice:

*Exclusion of certain categories of claims from the scope of free legal aid, such as housing or immigration proceedings, or exclusion from representation before quasi-judicial tribunals, such as welfare or employment appeal boards, discriminates against the poor. Moreover the legal processes which relate to such civil matters are often extremely complex and their requirements onerous, creating insurmountable obstacles for those without the assistance of a lawyer, particularly if the State or other party enjoys such assistance. This is particularly troubling with respect to civil matters involving the most vulnerable groups, such as indigenous peoples, persons with disabilities and ethnic minorities, who often face serious deprivations and violations of their rights, and lack the means or ability to contest them.*¹⁴

Further, in July 2015, the UN Committee on Economic, Social and Cultural Rights expressed concern regarding the exclusion of certain areas of law from the civil legal aid scheme “which prevents especially disadvantaged and marginalised individuals and groups from claiming their rights and obtaining appropriate remedies, particularly in the areas of employment, housing and forced evictions, and social welfare benefits”.¹⁵ Thereafter, the UN Committee recommended that the remit of the Legal Aid Board be expanded and that civil legal aid services be made available in a wider range of areas.¹⁶

- **Quasi-Judicial Tribunals**

Legal representation is not available for hearings before the Social Welfare Appeals Office and the Workplace Relations Commission. These quasi-judicial tribunals, which make legally binding decisions outside of the court, are a common route for many Travellers and Roma to access justice for employment, equality and social welfare-related matters. FLAC is concerned that lack of availability of

¹³ Office of the High Commissioner for Human Rights (2011) *Report of the UN Independent Expert on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona to the Human Rights Council*, Geneva: OHCHR, p.4.

¹⁴ UN Special Rapporteur on extreme poverty and human rights (2012) *Report of the Special Rapporteur on extreme poverty and human rights – obstacles to access to justice for persons living in poverty*, Geneva: OHCHR, p.14.

¹⁵ UN Committee on Economic, Social and Cultural Rights (2015) *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Ireland*, Geneva: OHCHR, para.8.

¹⁶ UN Committee on Economic, Social and Cultural Rights (2015) *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Ireland*, Geneva: OHCHR, para.8.

legal representation in these types of cases means that many Travellers and Roma cannot present their cases in the manner that fairness demands, depriving them of access to justice.

For example, in social welfare appeals, Appeals Officers will often deal with complex legal issues such as the application of the “right to reside” test and the Habitual Residence Condition. The “right to reside” test is a question of law, which seeks to ascertain whether the social welfare applicant has a lawful right to reside in Ireland. Establishing a right to reside is a prerequisite to satisfying the Habitual Residence Condition. The Habitual Residence Condition is an additional qualifying condition for all means-tested social welfare payments and Child Benefit by which an applicant has to show a connection to the State by reference to a number of interrelated and, to some extent, subjective factors determined in accordance with the jurisprudence of the Court of Justice of the European Union.

Roma face significant difficulties satisfying the right to reside test due to lack of documentation, proof of address and language and literacy skills.¹⁷ In its application, the Habitual Residence Condition disproportionately affects members of the Traveller and Roma communities who experience considerable challenges in terms of establishing a connection to Ireland, by reason of either their nomadic way of life or, in the case of Roma, the inherent barriers they experience in proving their connection to the State.¹⁸ Barriers in accessing entitlements may also have a disproportionate impact on Travellers and Roma in the context of free movement and entitlement to social advantages. Given the complexity of the law in this area, FLAC is concerned that Travellers and Roma are significantly disadvantaged by lack of legal representation in making social welfare appeals.

Additionally, while employers and businesses can often afford to pay for private legal representation before the Workplace Relations Commission, Travellers and Roma making complaints under the Employment Equality Acts and the Equal Status Acts often cannot. Where a Traveller or Roma alleging discrimination does not have such financial means and is faced with an experienced legal team on the other side, this can give rise to an inequality of arms in practice.

Finally, it is relevant to note that the European Court of Human Rights has ruled that the blanket exclusion of any area of law from a civil legal aid scheme breaches Article 6(1) of the Convention.¹⁹ Therefore, there is a high degree of likelihood that the exclusion of the Workplace Relations

¹⁷ Pavee Point and National Traveller Women’s Forum (2017) *Irish Traveller & Roma Report: A response to Ireland’s consolidated sixth and seventh periodic reports to the UN Committee on the Elimination of Discrimination against Women*, Dublin: Pavee Point & NTWF.

¹⁸ In July 2015, the UN Committee on Economic, Social and Cultural Rights expressed concern at the discriminatory effect of the Habitual Residence Condition on Travellers and Roma in accessing social security benefits. The Committee recommended that Ireland review the Habitual Residence Condition so as to eliminate its discriminatory impact on access to social security benefits. UN Committee on Economic, Social and Cultural Rights (2015) *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Ireland*, Geneva: OHCHR, para.21.

¹⁹ In *Steel & Morris v the United Kingdom*, the European Court of Human Rights held that, “[t]he question whether the provision of legal aid is necessary for a fair hearing must be determined on the basis of the particular facts and circumstances of each case and will depend, inter alia, upon the importance of what is at stake for the applicant in the proceedings, the complexity of the relevant law and procedure and the applicant’s capacity to represent him or herself effectively.” *Steel & Morris v UK* (2005) 41 EHRR 22, para.61.

Commission and the Social Welfare Appeals Office from the scope of the civil legal aid system in a blanket manner, without allowing for any examination of the particular facts of a case, may breach the right to a fair hearing guaranteed by Article 6 of the ECHR and may deny access to an effective remedy pursuant to Article 13.

- **Evictions**

Furthermore, civil legal aid is not available for “disputes concerning rights and interests in or over land”, which means that there may be difficulties in obtaining legal aid for housing issues.²⁰ The Legal Aid Board takes the general view that eviction proceedings constitute “a dispute concerning rights or interests over land” and are therefore excluded from the remit of the civil legal aid scheme. While there is an extremely limited exception to this rule,²¹ the exclusion of this area of law means Travellers encounter difficulties accessing civil legal aid for forced evictions.

Another barrier faced by Travellers seeking access to the civil legal aid scheme is that Gardaí will often not wait long enough to allow those facing eviction to seek legal advice or representation from the Legal Aid Board. Under Section 10 of the Housing (Miscellaneous Provisions) Act 1992 as amended by Section 32 of the Housing (Traveller Accommodation) Act 1998 and Section 21 of the Housing (Miscellaneous Provisions) Act 2002, if a “temporary dwelling” such as a caravan is set up on either public or private land without permission, the owner may receive a notice giving them 24 hours to move it, otherwise the local authority may seize it and either move it or impound it. Given the long waiting times which exist in most Law Centres, it is not possible for Travellers facing imminent eviction to access a consultation with a Legal Aid Board solicitor, or indeed any solicitor, within 24 hours, even if the matter is prioritised.²²

In 2013, the European Roma Rights Centre, in partnership with the Irish Traveller Movement, submitted a collective complaint to the European Social Committee (‘the Committee’) in relation to the alleged breach by the State of articles 16 (protection of the family), 17 (protection of children) and 30 (protection from poverty and social exclusion) of the Revised European Charter (‘the Charter’) either taken alone or in conjunctions with Article E (non-discrimination provision).

The Committee published its decision on 16 May 2016,²³ and found Ireland to be in breach of Article 16 of the Charter in relation to insufficient provision of accommodation for Travellers; the inadequate condition of many Traveller sites, and the absence of safeguards for Travellers threatened with eviction, including lack of legal aid. The Committee emphasised that, in order to comply with the Charter, legal protection for persons threatened with eviction must be prescribed by law and include

²⁰ Section 28(9)(a)(ii) of the Civil Legal Aid Act 1995.

²¹ Legal aid may be granted where a subject matter of the dispute is the applicant's home (or what would be the applicant's home but for the dispute) and the Board considers that the applicant suffers from “an infirmity of mind or body due to old age or to other circumstances”, or may have been subjected to duress, undue influence or fraud in the matter, and that a refusal to grant legal aid would cause hardship to the applicant. See Section 28(9)(c)(iii) of the Civil Legal Aid Act 1995.

²² See latest available data on waiting times in Law Centres available at <http://www.legalaidboard.ie/en/About-the-Board/Press-Publications/Statistics/> [accessed 23 March 2017].

²³ Complaint No. 100/2013.

access to legal aid. As yet, the State has taken no positive steps to bring domestic law in line with this decision.

Recommendations

- **Designate the Social Welfare Appeals Office and Workplace Relations Commission as “prescribed” tribunals for the purposes of Section 27(2)(b) of the Civil Legal Aid Act 1995;**
- **Ensure that civil legal aid is available to Travellers facing eviction proceedings.**

Cultural Identity

Traveller Ethnicity

FLAC welcomes the Taoiseach's recent statement recognising Travellers as an ethnic minority.²⁴ Recognition of Traveller ethnicity is not only a symbolic measure, as Travellers are now explicitly recognised by the State as coming within the scope of the protection of EU Equality Directives, such as the Racial Equality Directive, and also various UN human rights treaties, most obviously the UN Convention on the Elimination of all Forms of Racial Discrimination (CERD).

Anti-Discrimination and Equality

Human rights and equality infrastructure

The Equal Status Acts 2000 – 2015 prohibit discrimination against Travellers and Roma in the provision of goods and services, the provision of accommodation and access to education. However, Section 14 of the Equal Status Acts precludes legal actions against legislative provisions. In practical terms, this means that any legislation which discriminates against Roma and Travellers, or has a disproportionately negative impact on Roma and Travellers, falls outside the scope of the Equal Status Acts and cannot be challenged under domestic equality legislation.

In February 2017, the UN Committee on the Elimination of all forms of Discrimination against Women expressed concern that section 14 of the Equal Status Acts 2000 – 2015 precludes the use of the equality framework to challenge other discriminatory laws.²⁵ Thereafter, the Committee recommended that Ireland amend section 14 of the Equal Status Acts to ensure that an effective remedy is available for discrimination that has a legislative basis.

Further, the definition of “services” in section 2 of the Equal Status Acts is broad enough to include the services provided by public bodies. However, the scope of the Acts does not extend to the performance of the functions of public bodies generally. Therefore, it is unclear to what extent the

²⁴ Taoiseach, Enda Kenny TD, Dáil Debates: Traveller Ethnicity, 1 March 2017. In so doing, the Government implemented a range of recommendations from UN Treaty Bodies, including the UN Committee on the Elimination of Racial Discrimination, and the Council of Europe.

²⁵ UN Committee on the Elimination of all forms of Discrimination against Women (2017) *Concluding observations on the combined sixth and seventh periodic reports of Ireland*, Geneva: CEDAW, p.3.

Equal Status Acts apply to public authorities performing public functions which may not come within the definition of “services” but which may nonetheless have a great impact on lives, including the lives of Travellers and Roma.²⁶ The definition of “services” in the Act should include functions of the State most relevant to Roma and Travellers such as immigration, citizenship and police powers.

Recommendations

- **Amend Section 14 of the Equal Status Acts 2000 – 2015 to ensure that an effective remedy is available for discrimination that has a legislative basis;**
- **Broaden the scope of the Equal Status Acts 2000 – 2015 to include the functions of public bodies most relevant to Roma and Travellers.**

Traveller and Roma Communities

Habitual Residence Condition

Despite repeated calls from regional and international human rights bodies and experts, a review of the Habitual Residence Condition and its discriminatory impact on vulnerable groups accessing social welfare payments has yet to be initiated. The Habitual Residence Condition is an additional qualifying condition for all means-tested social welfare payments and Child Benefit by which an applicant has to show a connection to the State by reference to a number of interrelated and, to some extent, subjective factors. In its application, the Habitual Residence Condition disproportionately affects vulnerable groups, such as Travellers and Roma, which experience considerable challenges in terms of establishing a connection to Ireland, by reason of either their nomadic way of life or, in the case of Roma, the inherent barriers they experience in integrating into a new country and proving their connection to the State.²⁷

In the absence of access to regular social welfare payments, Travellers and Roma are at risk of extreme poverty and destitution. According to the preliminary findings of the Roma Needs Assessment Study, 66.3% of respondents said that they cannot afford to keep the house warm all the time.²⁸

Recommendations

- **Undertake a review of the Habitual Residence Condition so as to establish whether it has a discriminatory impact on access to social welfare, particularly among Travellers and Roma.**

²⁶ E. Barry (2015) ‘Non-Discrimination and equality’ in *Making Rights Real: A Children’s Rights Audit of Irish Law*, Dublin: Children’s Rights Alliance and Law Centre for Children and Young People, pp.20-21.

²⁷ In July 2015, the UN Committee on Economic, Social and Cultural Rights recommended that Ireland review the Habitual Residence Condition so as to eliminate its discriminatory impact on access to social security benefits. UN Committee on Economic, Social and Cultural Rights (2015) *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Ireland*, Geneva: OHCHR, para.21.

²⁸ Commissioner for Human Rights of the Council of Europe (2017) *Report by Nils Muiznieks following his visit to Ireland from 22 to 25 November 2016*, Strasbourg: CoE, p.9.

