

# Equality

## SUMMARY OF KEY ISSUES FROM PREVIOUS CYCLES

Ireland accepted several recommendations on foot of its last UPR Review in relation to the promotion of equality and the elimination of discrimination.

Ireland supported 14 recommendations in relation to addressing racial discrimination. For example, Rec 135.104 from the Holy See. Ireland supported several recommendations in relation to the promotion of gender equality. For example, Rec 135.91 from Malaysia and Rec 135.93 from Panama, both in relation to equality in employment. Ireland supported Rec 135.143 from Singapore: “Continue to improve employment opportunities and remove barriers to employment for persons with disabilities”.

Ireland supported Rec 135.119 from Denmark: “Take further steps to address discrimination of lesbian, gay, bisexual, transgender and intersex persons in access to goods, employment and services, including healthcare”.

## NATIONAL FRAMEWORK

The Equal Status Acts 2000-2018 prohibit discrimination in the provision of goods and services, accommodation and education on nine grounds. The Employment Equality Acts 1998-2015 prohibit discrimination on the same grounds in employment. Discrimination complaints are generally heard by the Workplace Relations Commission (WRC).

The Minister for Children, Equality, Disability, Integration and Youth recently announced a comprehensive review of Ireland’s domestic Equality legislation.

## CHALLENGES

1. Neither piece of equality legislation explicitly prohibits multiple or intersectional discrimination.
2. Section 14 of the Equal Status Acts excludes complaints in relation to discriminatory effects of the operation of legislative provisions. In practical terms, this means that any legislation which discriminates on one of the nine grounds or has a disproportionately negative impact in this regard falls outside the scope of the Equal Status Acts and cannot be challenged under domestic equality legislation.
3. Socio-economic status is not a protected ground under Ireland’s equality legislation.

## IMPACTS

There was an 11% reduction in complaints under the Equal Status Acts received by the WRC in 2018 (compared with 2017) and a further 26% reduction in 2019 (compared with 2018). In 2019, there was also an 11% decrease in complaints under the Employment Equality Acts (compared with 2018).

In 2015, the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR) recommended that Ireland “adopt comprehensive anti-discrimination legislation that includes all the grounds for discrimination [including socio-economic status] set out in article 2 (2) of the [International Covenant on Economic, Social and Cultural Rights]”

In 2017, the UN Committee on the Elimination of all forms of Discrimination against Women (UNCEDAW) expressed concern that section 14 of the Equal Status Acts 2000- 2018 precludes the use of the equality framework to challenge other discriminatory laws. 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.

### CHALLENGES

- The definition of “services” in the Equal Status Acts is broad enough to include 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 prohibition on discrimination on the nine grounds apply to public authorities such as An Garda Síochána, the national policeforce.

### IMPACTS

In 2019, UNCERD recommended that Ireland review its equality legislation with a view to: “providing for explicit prohibition of multiple or inter-sectional discrimination”; “explicitly including the functions of public authorities within the definition of the ‘services’ in Section 5 of the Equal Status Acts”; and, “ensuring that an effective remedy is provided for discrimination that has a legislative basis”.

Where a person considers that they have been discriminated against on or at the point of entry to a licensed premises, they must apply to the District Court for redress. In 2019, the United Nations Committee on the Elimination of Racial Discrimination (UNCERD) expressed its concern that the need to initiate “complex court proceedings may effectively hinder Travellers and Roma from accessing justice and remedies for the racial discrimination they have experienced”.

### RECOMMENDATIONS

- The ongoing review of Ireland’s equality law must ensure that the legislation and framework for dealing with discrimination complaints are robust enough and meet Ireland’s human rights obligations under international instruments.
- Ireland must implement the recommendations of UNCESCR, UNCEDAW and UNCERD in relation to Ireland’s Equality legislation, specifically the recommendation of UNCERD that Ireland review its equality legislation with a view to: “providing for explicit prohibition of multiple or inter-sectional discrimination”; “explicitly including the functions of public authorities within the definition of the ‘services’ in Section 5 of the Equal Status Acts”; and, “ensuring that an effective remedy is provided for discrimination that has a legislative basis”.

### QUESTIONS

Will the ongoing review of Ireland’s equality ensure that the legislation and framework for dealing with discrimination complaints are robust enough and meet Ireland’s human rights obligations under international instruments? Will Ireland implement the recommendations of UNCESCR, UNCEDAW and UNCERD in relation to its Equality legislation?

### SOURCES

FLAC Submission to the Office of the United Nations High Commissioner for Human Rights: Third Review of Ireland under the UN UPR Mechanism, available at: <https://www.flac.ie/publications/flac-submission-to-the-office-of-the-united-nation/>

### CONTACT DETAILS

Caroline Smith, [flacmedia@flac.ie](mailto:flacmedia@flac.ie), [www.flac.ie](http://www.flac.ie)