



PAVEE POINT
TRAVELLER AND ROMA CENTRE

**Submission to the Department of Foreign Affairs and Trade on the Working Outline of
Ireland's National Plan on Business and Human Rights 2016-2019**

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Introduction

Pavee Point Traveller and Roma Centre is a national non-governmental organisation committed to the attainment of human rights for Irish Travellers and Roma in Ireland. Established in 1985, the organisation comprises Travellers, Roma and members of the majority population working in partnership to address the needs of Travellers and Roma, who as minority ethnic groups experience exclusion and marginalisation. The aim of Pavee Point is to contribute to improvement in the quality of life and living circumstances of Irish Travellers and Roma by working for social justice, solidarity and human rights.

Our submission puts forward recommendations to inform Ireland's National Plan on Business and Human Rights 2016-2019 (NPB&HR) and its proposed actions nationally and internationally.

1. General – Protecting the Rights of Vulnerable Groups

The UN Guiding Principles on Business and Human Rights highlight the importance of equality and non-discrimination in the context of business and human rights, emphasising that the Guidelines should be implemented: [...] in a non-discriminatory manner, with particular attention to the rights and needs of, as well as the challenges faced by, individuals from groups or populations that may be at heightened risk of becoming vulnerable or marginalized, and with due regard to the different risks that may be faced by women and men.

Recommendation: The NPB&HR should incorporate specific actions, which recognise discrimination faced by minority ethnic groups, indigenous people, women, children, people with disabilities, and LGBTI people. Clear guidance in relation to protecting and respecting the rights of these groups should be incorporated into due diligence processes, drawing from relevant recommendations by international human rights treaties to which Ireland is party.

Recommendation: A mainstream approach to promoting gender equality and empowerment of women and girls in recruitment, employment, labour, decision making and leadership must be extended to reflect the diversity of women and girls. The NPB&HR must be founded on a clear recognition of intersectional or multiple forms of discrimination experienced by minority ethnic women and girls. Clear actions to address the inequalities faced by minority ethnic women in recruitment, employment, labour, decision making and leadership must be included in the NPB&HR.

Recommendation: The NPB&HR should include actions to address concluding observations 23 and 24 by the UN Committee on the Rights of the Child in its combined third and fourth periodic reports of Ireland.¹ The observations welcome the Working Outline of a NPB&HR but express concern about the absence of any firm commitment to children's rights and recommend that the plan should take into account the impact of the business sector on children. The Committee goes on to recommend that;

the State party establish and implement regulations to ensure that the business sector, including in the context of public procurement, complies with international and national human rights, labour, environment and other standards, particularly with regard to children's rights. In particular, it recommends that the State party:

¹ UN Committee on the Rights of the Child, *Concluding observations on the combined third and fourth periodic reports of Ireland*, 29 January 2016.

- (a) *Strengthen its regulatory framework for the industries and enterprises operating in the State party to ensure that their activities do not negatively affect children's rights or endanger environmental and other standards;*
- (b) *Establish independent mechanisms to monitor implementation by business enterprises of international and national environment and health standards, and appropriately sanction and provide remedies when violations occur, as well as ensure that appropriate international certification is sought;*
- (c) *Require companies to undertake assessments, consultations, and full public disclosure of the environmental, health-related and human rights impacts of their business activities and their plans to address such impacts; and,*
- (d) *Be guided by the United Nations "Protect, Respect and Remedy" Framework, accepted unanimously in 2008 by the Human Rights Council, while implementing these recommendations.*

These should be actioned into the NPB&HR and with a focus especially on minority ethnic groups.

2. Action Point 19 - How the State supports business

This recommendation should be strengthened to say that the B&HR Implementation Group will *proactively* promote human rights due diligence in the context of State support to business, especially when channelling public funds to local structures and mechanisms for enterprise, in order to prevent discrimination and promote equality of outcomes.

3. Action Points 23 & 24 - Procurement

There are significant concerns about the growing use of procurement to commission, purchase or outsource public services, especially for disadvantaged and vulnerable groups. This includes the delivery of social inclusion, equality and employment activation programmes at national and local level as well as core public services in the health and social care fields which impact poorer people and minority ethnic groups disproportionately.

As stated in the Plan Outline, the EU Directive on public procurement sets rules for public bodies when purchasing goods and services.² Stronger guidance is required to ensure that procurement approaches are only used in instances that do not pose a threat to the protection of human rights.

Research by Community Work Ireland shows that procurement and competitive tendering approach is not appropriate for the community sector in human rights terms.³ Competitive tendering process can leave community organisations and service providers unaccountable to rights holders, and thus undermine their ability to support rights-holders to act for the full realisation of their rights.

There is a need for a robust human rights framework for the commissioning of such services that will place the rights of those engaging with the service at the centre of the commissioning process.

Recommendation: anti-racist and non-discriminatory principles should underpin such commissioning processes. Programmes that address poverty, social exclusion and inequality must be exempt from competitive tendering on the basis that they are providing social services of general interest, including those outsourced or commissioned; and there is a need to ensure that all other

² European Directive on Public Procurement 2014/24/EU.

³ Community Work Ireland, *In Whose Interest? Exploring the Impact of Competitive Tendering and Procurement on Social Inclusion and Community Development in Ireland*, 2015, Available online at:

<http://communityworkireland.ie/in-whose-interests/>.

commissioning models are designed to achieve best outcomes for communities, including minority ethnic communities.

4. Human rights obligations of Public Bodies

The Irish Human Rights and Equality Commission Act 2014 (Section 42, IHREC) “positive duty” obligations places a commitment on public bodies to be proactive and advance equality and human rights practices within the public sector. Section 42 of the Irish Human Rights and Equality Commission Act 2014 sets out the Positive Duty required of Public Bodies. It states that Public Bodies in performing their functions need to have regard to the need to:

- Eliminate discrimination
- Promote equality of opportunity and treatment of its staff and the persons to whom it provides services
- Protect the human rights of its members, staff and the persons to whom it provides services

Public bodies are required, in their strategic plans, to assess the equality and human rights issues relevant to their functions and to set out the policies and plans, in place or to be put in place, to address these, and to report on developments and their achievements in this regard. Public bodies should promote equality and protect human rights through their procurement processes and engagements with the private sector, especially when providing services to vulnerable groups

Recommendation: Monitoring and evaluation of outcomes on an ongoing basis is crucial with a clear public accountability mechanism for reporting progress with a particular focus on dialogue with representative organisations of people experiencing inequality or human rights issues.

Recommendation: For this implementation to be effective it is crucial that the NPB&HR champions and supports the mainstreaming of ethnic data collection, analysis, disaggregation and dissemination in order to have data to facilitate equality reviews and positive duty analysis.

5. Equality

The Employment Equality Acts 1998-2015 prohibit direct and indirect discrimination in the area of employment on nine grounds including membership of the Traveller community, race, gender, civil status, family status, age, religion, disability and sexual orientation.

Yet, unemployment among Travellers in Ireland is significantly higher due to discrimination in employment and low levels of education. 84% of Travellers are unemployed in comparison to an overall national figure of 14%.⁴ Anecdotal evidence suggests the unemployment rate for Roma is also extremely high.⁵

Recommendation: Clear action points must be included in the NPB&HR to address the discrimination against and exclusion of vulnerable and marginalised groups in employment and in Ireland’s regulatory and legislative environment.

6. Action Points 28 & 29 Protection of Irish Civil Society and Human Rights Defenders

Civil society organisations and human rights defenders play an integral role in promoting and furthering the realisation of human rights and equality. To do so, such actors need to be protected

⁴ Central Statistics Office, *Census 2011 Profile 7- Religion, Ethnicity and Irish Travellers* at 32.

⁵ Pavee Point, *Roma Communities in Ireland: Child Protection Considerations*, Dublin, Health Service Executive and Pavee Point, 2012.

so that they can campaign on human rights and equality issues without fear of reprisal. This is equally true for human rights defenders in Ireland and abroad.

Recommendation: The NPB&HR should identify specific actions and targets to support good governance, including protection and support for an independent civil society, and protect human rights defenders both overseas and in Ireland.

Recommendation: A greater focus should be placed on prevention and risk assessment of human rights abuses through improved mechanisms, which ensure international standards on business and human rights are effectively integrated into Irish business standards and processes. The NPB&HR needs to go beyond *encouraging* businesses to respect human rights in their activities. Mechanisms, which include mandatory requirements or sanctions for harming human rights and rewards for their protection, must be introduced.

7. Action Points 39 & 40 Integration of Human Rights into Business Education, Policy and Standards

Human rights should become an integral part of business education, policy and standards. Attention should not only be given to human rights issues overseas but also in Ireland.

Recommendation: Business education should take into account a wide variety of human rights issues. Comprehensive human rights and equality training should be developed utilising expertise across civil society and minority groups experiencing inequality, and should be founded on principles of anti-racism, anti-discrimination and interculturalism.