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Ireland

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*European Commission
B-1049 Brussels*

Country report

Non-discrimination

Transposition and implementation at national level of
Council Directives 2000/43 and 2000/78

Ireland

Judy Walsh

Reporting period 1 January 2025 – 1 January 2026

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EXECUTIVE SUMMARY

1. Introduction

Irish society is relatively homogeneous but becoming increasingly diverse. According to the 2022 census,¹ of a population of just under 5.15 million, 69 % are Roman Catholic, 14 % are non-religious (an increase of 63 % from 2016), and the remainder are of various other religions. 77 % of the population describe themselves as 'White Irish' and 32 949, less than 1 %, as Irish Travellers. Overall, 502 081 people indicated that they were of 'Any other White background'. Census 2022 recorded Roma ethnicity for the first time, establishing that 16 059 Roma people live in Ireland. In the other new ethnic background categories, 20 115 persons identified as Arab and 94 434 as Indian/Pakistani/Bangladeshi. There were 67 456 people identifying as 'Black or Black Irish – African' (an increase of 17 % from 2016), with a further 8 699 individuals identifying their ethnicity as 'Black or Black Irish – any other Black background'. In total, 26 828 people are of 'Asian or Asian Irish – Chinese' ethnicity and 44 944 people identify as 'Asian or Asian Irish – any other Asian background'. Over 1.1 million people, approximately 22 % of the population, recorded having a disability.² A total of 10 393 same-sex couples live in Ireland, an increase of 72 % compared with the previous census. The number of non-Irish citizens increased by 1 % in 2022 to reach 631 785, accounting for 12 % of the population. Citizens of Poland, the UK, India, Romania and Lithuania comprise the top five nationality groups.

Ireland's anti-discrimination laws were expanded significantly in the late 1990s. The Employment Equality Act 1998 (EEA)³ and the Equal Status Act 2000 (ESA)⁴ provided for nine discriminatory grounds and established an equality body called the Equality Authority, as well as a dedicated forum for hearing anti-discrimination complaints, the Equality Tribunal. In November 2014, the Irish Human Rights and Equality Commission (IHREC)⁵ was established as Ireland's national equality body, replacing the Equality Authority. The body is equipped with equivalent powers to its predecessor and is also the national human rights institution. The Equality Tribunal was subsumed, along with several employment rights bodies, into the Workplace Relations Commission (WRC) in 2015.⁶

Draft legislation stemming from the Government's review of Irish anti-discrimination law was pending as of 1 January 2026. Outline reform proposals were published in January 2025 and subsequently scrutinised by a parliamentary committee. The Government has not provided a timeline for publication of the draft bill to amend EEA and ESA (see section 8.2(a)). As discussed in section 3.1.2, the High Court found that a corporate body could pursue a discrimination complaint reversing a line of Equality Tribunal and WRC findings that only natural persons could invoke protection from discrimination under ESA (see case summary in Section 12.2).⁷ With reference to CJEU case law on discrimination by association, it underlined that such complaints could include ones based on another (natural) person's characteristic. The judgment should give greater impetus to longstanding calls to legislate for broader legal standing.

¹ See <https://www.cso.ie/en/census/>. The latest census took place in April 2022; results were released from May to December 2023: <https://www.cso.ie/en/census/census2022/census2022publicationschedule/>. The next census will take place on 9 May 2027.

² 'Disability' refers to people who experienced at least one long-lasting condition from a list of seven. Respondents were also asked whether they experienced that condition to some extent, to a great extent or not at all. Overall, 8 % of the population reported experiencing a condition to 'a great extent'.

³ Employment Equality Act 1998, 18 June 1998, <http://www.irishstatutebook.ie/eli/1998/act/21/enacted/en/print>.

⁴ Equal Status Act 2000, 26 March 2000, <http://www.irishstatutebook.ie/eli/2000/act/8/enacted/en/html>.

⁵ Irish Human Rights and Equality Commission Act 2014, 27 July 2014, <http://www.irishstatutebook.ie/2014/en/act/pub/0025/print.html>.

⁶ Workplace Relations Act 2015, 20 May 2015, <http://www.irishstatutebook.ie/eli/2015/act/16/enacted/en/pdf>.

⁷ High Court, *XTX Markets Technologies Limited v. Aviva Investors Liquidity Funds PLC*, [2025] IEHC 651, 26 November 2025.

2. Main legislation

The Irish Constitution enshrines a guarantee of equality before the law with no specified discriminatory grounds. It is invoked relatively infrequently.⁸

Irish anti-discrimination legislation consists of the Employment Equality Acts 1998-2021, which govern employment and occupation, and the Equal Status Acts 2000-2018, which cover goods, services, housing/accommodation and education. The Pensions Acts 1990-2018⁹ apply to occupational pension schemes. Each law covers the grounds of gender, age, race, religion, family status,¹⁰ disability, civil status, sexual orientation and membership of the Traveller community. A further 'housing assistance' ground was added to the Equal Status Acts in 2015 to prohibit discrimination in providing rental accommodation to people who receive social protection benefits such as housing assistance payments.¹¹

Other laws also contain provisions prohibiting discrimination: the Unfair Dismissals Acts 1977-2015,¹² the Prohibition of Incitement to Hatred Act 1989,¹³ which criminalises hate speech, and the Intoxicating Liquor Act 2003,¹⁴ Section 19 of which provides for the enforcement of discrimination law in the context of premises licensed for the sale of alcohol.

Irish anti-discrimination legislation goes beyond the EU equality directives, in that the personal scope of the Equal Status Acts 2000-2018 prohibits discrimination not just on grounds of race and gender, but also on the grounds of age, civil status, disability, family status, religion, sexual orientation, membership of the Traveller community and housing assistance. Nationality-based discrimination is also expressly prohibited under the 'race' ground. The definition of disability is broader than in EU law, and reasonable accommodation on that ground must be provided to people accessing goods and services. There is a substantial body of case law on all discriminatory grounds, the bulk of which comprises decisions of the WRC (formerly the Equality Tribunal) and the Labour Court.¹⁵ Studies suggest that under-reporting of discrimination and failure to take action in response to perceived discrimination are significant problems.¹⁶

Ireland has ratified the main Council of Europe human rights instruments, including the Revised European Social Charter, but not Protocol 12 to the European Convention on Human Rights. It has also ratified most of the primary United Nations instruments, with ratification of the UN Convention on the Rights of Persons with Disabilities in 2018 and of its Optional Protocol in 2024.¹⁷ Ireland is a dualist state, meaning that for international law to be enforceable in the Irish legal system, it must be transposed by means of legislation into the national legal order. The main international convention that has been transposed

⁸ Dewhurst, E. (2015), 'Principles of Irish Constitutional Equality Law: Recent Developments', *Bar Review* 20(4), pp. 74-77, <https://www.lawlibrary.ie/rss/barreview/4-2015.pdf>.

⁹ Pensions Act 1990, 24 July 1990, <http://www.irishstatutebook.ie/eli/1990/act/25/enacted/en/print.html>, amended by Section 22 of the Social Welfare (Miscellaneous Provisions) Act 2004, <http://www.irishstatutebook.ie/eli/2004/act/9/section/22/enacted/en/html#sec22>; Section 27 of the Social Welfare, Pensions and Civil Registration Act 2018, <https://www.irishstatutebook.ie/eli/2018/act/37/section/27/enacted/en/html#sec27>.

¹⁰ The family status ground covers people in defined relationships of dependency, such as parents of children and carers of persons with disabilities (Section 2(1) ESA). It would include same-sex families, but it is not apparent from the case law whether any such families have invoked the ground.

¹¹ Equality (Miscellaneous Provisions) Act 2015, 10 December 2015, <http://www.irishstatutebook.ie/eli/2015/act/43/enacted/en/pdf>.

¹² Unfair Dismissals Acts 1997-2015, 6 April 1997, http://www.lawreform.ie/fileupload/RevisedActs/WithAnnotations/HTML/EN_ACT_1977_0010.htm.

¹³ Prohibition of Incitement to Hatred Act 1989, 29 November 1989, <http://www.irishstatutebook.ie/eli/1989/act/19/enacted/en/html>.

¹⁴ Intoxicating Liquor Act 2003, 14 July 2003, <http://www.irishstatutebook.ie/eli/2003/act/31/enacted/en/print#sec19>.

¹⁵ The determinations of both bodies are published at <https://www.workplacerelations.ie/en/>.

¹⁶ See, for example, McGinnity, F., Grotti, R., Kenny, O., and Russell, H. (2017), *Who experiences discrimination in Ireland? Evidence from the QNHS Equality Modules*, Dublin, ESRI.

¹⁷ Department of Children, Disability and Equality, 'Government announces decision to accede to the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities', press release, 8 October 2024.

into Irish law is the European Convention on Human Rights, which was incorporated by means of the European Convention on Human Rights Act 2003.¹⁸

3. Main principles and definitions

Direct discrimination is defined in the anti-discrimination laws as treating one person less favourably than another person is treated, has been treated or would be treated in a similar situation on any of the discriminatory grounds. This prohibition includes discrimination by association and assumption, and discrimination on a discriminatory ground that exists, existed but no longer exists, or may exist in the future. Indirect discrimination is defined as occurring where an apparently neutral provision would put a person covered by one of the discriminatory grounds at a particular disadvantage compared with other persons. This differential impact may be permitted where it can be objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Harassment is defined as any unwanted conduct related to a discriminatory ground, which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. This conduct can include acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material. Victimisation covers any person who claims discrimination, instigates proceedings, supports a complainant, acts as a comparator or a witness to an incident that has given rise to a complaint, opposes discrimination by lawful means or gives notice of an intention to do any of the above, and who, as a result, suffers dismissal or adverse treatment. Instructions to discriminate are expressly prohibited under the Employment Equality Acts and are covered to an extent under the Equal Status Acts by the prohibition of the procurement of discrimination.

The Employment Equality Acts 1998-2021 provide that, where a person who has a disability can perform the duties of the post with or without the assistance of 'appropriate measures', they will be deemed competent under the Acts. The employer has an obligation to take appropriate measures to enable a person with a disability to have access to employment, to participate or advance in employment and to undergo training, unless such measures would impose a disproportionate burden on the employer. To determine what amounts to a disproportionate burden, account must be taken of the costs of the measure in question, the scale and financial resources of the employer and the possibility of obtaining public funding or other assistance. Under the Equal Status Acts 2000-2018, a provider of goods or services must do all that is reasonable to accommodate the needs of a person with a disability by providing special treatment or facilities without which it would be impossible or unduly difficult for the person to avail themselves of the goods or services in question. This duty is subject to a nominal cost ceiling, which varies according to the scale of the organisation and the resources available to it.

The Employment Equality Acts contain several exceptions to the principle of non-discrimination, which does not apply to access to employment in another person's home for the provision of personal services. There are exceptions where the characteristic in question is a genuine and determining occupational requirement for the post concerned and the objective is legitimate and the requirement proportionate. There are also exceptions relating to the grounds of age and disability in occupational pensions and remuneration, respectively, with regard to someone with a restricted working capacity. There is an exception relating to discrimination in employment for the purposes of maintaining the religious ethos of an institution, provided that this is 'legitimate' and 'proportionate' and is limited so that it could not be used to justify discrimination on another ground. Exceptions also apply in respect of certain forms of employment, such as the armed forces, the Garda Síochána (police) and the emergency services.

¹⁸ European Convention on Human Rights Act 2003, 30 June 2003, <http://www.irishstatutebook.ie/eli/2003/act/20/enacted/en/print.html>.

Under the Equal Status Acts there are several exceptions and exemptions to the non-discrimination rule. Differences of treatment are permissible in respect of annuities, pensions and insurance policies where there is actuarial evidence to show that the difference is reasonable. There are exceptions to the non-discrimination norm for the purposes of organising sporting events, for authenticity purposes for a dramatic performance or other entertainment, or for the provision of services for religious purposes. There is an exception that discrimination in relation to the provision of goods or services is not actionable in circumstances that would lead a reasonable person to believe there is a substantial risk of criminal or disorderly conduct. The Equal Status Acts also contains a number of exceptions in respect of education on the grounds of age, gender, religious ethos and disability.

Multiple and/or intersectional discrimination is not explicitly prohibited.

4. Material scope

The Employment Equality Acts 1998-2021 apply to the field of employment and vocational training and do not distinguish between public and private sector employees. Discrimination is prohibited in access to employment, conditions of employment (including pay), training and experience for or in relation to employment, promotion, re-grading or classification of posts, and advertisements. Employment agencies and agency workers are also covered.

The Equal Status Acts 2000-2018 prohibit discrimination in relation to goods and services supplied by the private and public sectors, including education and housing/accommodation. Social protection and social advantages are not explicitly mentioned but are covered according to case law.¹⁹ The main compliance issue relates to a provision that exempts any action required by law from scrutiny.²⁰

5. Enforcing the law

Complaints under the Employment Equality Acts 1998-2021, the Equal Status Acts 2000-2018 and the Pensions Acts 1990-2018 may be brought before the Workplace Relations Commission (WRC). The WRC assumes an investigative role in the hearing of complaints; complainants may represent themselves and costs may not be awarded against either party. No fees are payable and WRC proceedings are relatively informal. The option of mediation is available. A mediated settlement agreed by the parties is legally binding and its terms can be enforced by a court. WRC employment determinations may be appealed to the Labour Court, while equal status appeals are heard by the Circuit Court. Labour Court and Circuit Court determinations can be appealed on a point of law to the High Court.

Claims are brought before the relevant body by way of application using online forms. Equal Status Acts complaints are subject to an additional requirement: the service provider must be notified in writing of the incident and of the complainant's intention to seek redress. Hearings before the WRC are held in public, save in 'special circumstances'. The decisions of the WRC are available for public inspection since they are published on its website. The 2025 WRC data on complaint referrals recorded decreases in the number of complaints referred under EEA on the age and Traveller community grounds, while the grounds of disability, race and religion saw significant increases. ESA complaints on the grounds of race and Traveller community have fluctuated in recent years. Overall, levels

¹⁹ On social protection, see, for example, Equality Tribunal, *McQuaid v. Department of Social Protection*, DEC-S2014-015, 2 October 2014, <https://www.workplacerelements.ie/en/Cases/2014/October/DEC-S2014-015.html>. On social advantages, see, for example, Equality Tribunal, *Thompson v. Iarnród Éireann*, DEC-S2009-015, 2 March 2009, <https://www.workplacerelements.ie/en/Cases/2009/March/DEC-S2009-015-Full-Case-Report.html>. Section 3.2.6 of this report discusses ambiguity in the case law on social advantages.

²⁰ Section 14(1)(a)(i), <http://www.irishstatutebook.ie/eli/2000/act/8/enacted/en/print#sec14>.

on both grounds have increased over the past few years, yet remain considerably lower than those applicable prior to 2016 (the WRC's first full year in operation). The reasons for these patterns are difficult to discern (Section 7.10).

Complaints about discrimination involving licensed premises (i.e. pubs etc.) are heard by the District Court, rather than the WRC. The major impact of this change, effected in 2003, has been increased costs and procedural complexity for complainants. Members of the Traveller community have been particularly affected, according to the European Commission against Racism and Intolerance (Section 6.1(b)).

Organisations may represent an individual complainant at the WRC and the Labour Court if authorised to do so by the complainant, but not before the Circuit Court or the High Court. Trade unions regularly represent their members. Organisations are not permitted to bring a complaint, with the exception of the Irish Human Rights and Equality Commission (IHREC). IHREC enjoys legal standing to bring complaints to the WRC relating to patterns of discrimination, discriminatory advertising or the contents of a collective agreement. It can also provide an individual complainant with legal representation and/or legal advice. At the beginning of 2024, the Commission was providing legal advice and representation to 207 individuals, and legal advice only to a further 62 people.²¹ IHREC granted legal assistance to 155 new applicants in 2024, a similar number to the 147 applications approved in 2023. In addition, 88 applications were declined and 7 were withdrawn or discontinued. Of the new applicants, 5 approvals were for 'practical assistance only', while 76 were for legal advice only. Legal advice and representation were granted to 57 people, and a further 17 approvals were for 'for practical assistance and limited representation'. These figures include human rights cases; the number falling under the equality mandate is not specified (Section 7.6(a)).²² Data for 2025 was not available at the time of writing.

The legislation provides for a shift in the burden of proof in non-discrimination cases where the facts established suggest that there is a prima facie case of discrimination. The use of statistics is permitted, but is not required, to raise a prima facie case.

The Employment Equality Acts 1998-2021 provide for a broad range of remedies: compensation, orders for employers to take specific courses of action, reinstatement and re-engagement. All employment contracts are deemed to have an equality clause, which transforms any provisions of the contract that would otherwise give rise to unlawful discrimination. All discriminatory provisions in collective agreements are deemed null and void and it is not possible to contract out of the terms of the equality legislation. There are maximum limits on financial awards. In the context of employment, those limits are a maximum of two years' pay, and EUR 13 000 where the complainant was not an employee of the respondent, with equal pay arrears going back three years. Compensation up to a ceiling of EUR 15 000 is provided for under the Equal Status Acts 2000-2018. Service providers can also be directed to take specific courses of action. Under both sets of Acts, the financial sanctions are much lighter than those provided for in the case of gender discrimination. This suggests that the sanctions available for the non-gender grounds may not be effective, proportionate or dissuasive. Injunctive relief is not available before the Workplace Relations Commission or the Labour Court; such action may only be taken by the ordinary courts.

From 2025, a binding 6 % quota applies to the employment of persons with disabilities in the civil and public service.²³ The Higher Education Authority oversees a range of measures that provide support to distinct categories of students covered by the discriminatory grounds, including students from the Traveller and Roma communities and students with

²¹ Data for 2025 was unavailable at the time of writing.

²² IHREC (2025), [Annual report 2024](#), p.14.

²³ Disability Act 2005, Section 47(4), as amended by Section 101 of the Assisted Decision-Making (Capacity) Amendment Act 2022.

disabilities.²⁴ Additional English language support is provided to migrant children in schools.

IHREC is the primary vehicle through which dialogue and consultation with NGOs and the social partners takes place. It is equipped with a range of relevant statutory powers and functions, including the power to establish advisory committees and to draft codes of practice.

6. Equality bodies

The Equality Authority was merged with the Irish Human Rights Commission to form the Irish Human Rights and Equality Commission (IHREC).²⁵ IHREC, which was established on 1 November 2014, is an independent body mandated to work towards the elimination of discrimination, promote equality of opportunity, provide information to the public on anti-discrimination law, and review various legislative enactments including the primary anti-discrimination laws. It fulfils these functions by, inter alia, conducting research, raising awareness, reviewing legislation and drafting statutory codes of practice.

IHREC has the power to instigate litigation in its own name and to assist litigants. It is authorised to conduct inquiries and to carry out equality reviews and equality action plans. IHREC invited several organisations to conduct equality reviews across 2024 and 2025, which were ongoing at the time of writing. In April 2025, the Commission published an account of a review undertaken by Gymnastics Ireland, the national governing body for the sport of gymnastics (Section 7.6(e)). The Commission has the full range of competences set out under Article 13 of the Racial Equality Directive. The Department of Children, Disability and Equality, under the direction of the minister, funds IHREC, which reports to the Oireachtas (the Irish Parliament).

7. Key issues

Section 42 of the Irish Human Rights and Equality Commission Act 2014 places a positive duty on public bodies to have due regard to human rights and equality in carrying out their functions. IHREC assists public bodies to comply with the positive duty; it has produced a draft code of practice which was awaiting ministerial approval at the beginning of 2026. A monitoring exercise was undertaken by the Commission for the first time in 2023. It revealed that just 12 % of public bodies are fully compliant with the statutory obligation. That figure increased to 20 % in 2024 (Section 7.6(d)).

Flexible sanctions are available, which enable remedies to be tailored to particular circumstances, and which can also generate significant effects beyond the immediate case. However, the limits set on compensation arguably undermine the requirement that sanctions be 'effective, proportionate and dissuasive'. It is uncertain whether the Equal Status Acts adequately cover social protection and social advantages, due in part to the broad exemption for measures that are required by law. The pursuit of complaints about discrimination in accessing goods and services is hampered by some procedural obstacles. Potential problems with the Employment Equality Acts include a narrow definition of vocational training, failure to cover beliefs that are not religious in nature, and a provision that enables lower rates of remuneration to be paid to persons with disabilities.

²⁴ See further: Department of Further and Higher Education, Research, Innovation and Science, and Higher Education Authority (2022), [*National Access Plan: A strategic action plan for equity of access, participation and success in higher education 2022–2028*](#).

²⁵ Irish Human Rights and Equality Commission Act 2014, 27 July 2014, <http://www.irishstatutebook.ie/2014/en/act/pub/0025/print.html>.

INTRODUCTION

The national legal system

The basic law of Ireland is the Constitution, Bunreacht na hÉireann, of 1937. It establishes the State and its institutions, sets out the fundamental principles guiding the governance of the State and contains an entrenched bill of rights.²⁶ The Constitution takes precedence over all other sources of law, subject to Article 29.4.6°, which ensures that nothing in the Constitution can invalidate laws enacted, acts done or measures adopted by the State where these are necessitated by membership of the EU. Article 15.4 prohibits the Oireachtas (Parliament) from enacting laws that conflict with the Constitution, including its human rights guarantees, while Article 34.3.2° vests in the High Court, Court of Appeal and Supreme Court the express power of judicial review of legislation.

The Constitution provides that the sole law-making body in the State is the Oireachtas.²⁷ Legislation must be passed by both houses of the Oireachtas and is then signed into law by the President. Legislation is the most significant source of non-discrimination measures.

Ireland is a dualist state; ratification of an international treaty does not automatically result in its provisions becoming part of the internal legal system.²⁸ In order to become enforceable under domestic law, a treaty must be incorporated either through an Act of the Oireachtas or by an amendment to the Constitution. The European Convention on Human Rights Act 2003 gave further effect to the provisions of the Convention under Irish law.²⁹ It places obligations on organs of the State to comply with the Convention and provides remedies for individuals whose rights have been infringed.

List of main legislation transposing and implementing the directives

Official title of the law: Employment Equality Acts 1998-2021³⁰

Abbreviation: EEA

Date of adoption: 18 June 1998

Entry into force: 18 October 1999

Latest amendment: 28 October 2024

Web link: <http://revisedacts.lawreform.ie/eli/1998/act/21/revised/en/html>.

Grounds covered: age, civil status, disability, family status³¹, gender, race, religion, sexual orientation, Traveller community

Civil law

Material scope: public employment, private employment, vocational education

Principal content: prohibitions of direct and indirect discrimination, harassment and victimisation; provision of reasonable accommodation on disability ground

Official title of the law: Equal Status Acts 2000-2018³²

Abbreviation: ESA

Date of adoption: 26 April 2000

Entry into force: 10 December 2000

Latest amendment: 18 July 2018

Web link: <http://revisedacts.lawreform.ie/eli/2000/act/8/revised/en/html>.

²⁶ Constitution of Ireland, 29 December 1937, <http://www.irishstatutebook.ie/eli/cons/en/html>.

²⁷ Ireland has a bicameral system, which means that there are two houses of the Oireachtas. The lower house is Dáil Éireann and the upper house is Seanad Éireann (the Senate). Legislative powers are granted to the two houses by virtue of Article 15.2 of the Constitution.

²⁸ Oireachtas Library and Research Service (2016), *International human rights law: operation and impact*.

²⁹ European Convention on Human Rights Act 2003, 30 June 2003, <http://www.irishstatutebook.ie/eli/2003/act/20/enacted/en/print.html>.

³⁰ Employment Equality Acts 1998-2021, <http://revisedacts.lawreform.ie/eli/1998/act/21/revised/en/html>.

³¹ The family status ground covers the parents of children, as well as the parents of or primary resident carers of persons with disabilities.

³² Equal Status Acts 2000-2018, <http://revisedacts.lawreform.ie/eli/2000/act/8/revised/en/html>.

Grounds covered: age, civil status, disability, family status, gender, race, religion, sexual orientation, Traveller community, housing assistance
Civil law

Material scope: access to goods or services (including housing), social protection, social advantages, education

Principal content: prohibitions of direct and indirect discrimination, harassment and victimisation; provision of reasonable accommodation on disability ground

Official title of the law: Pensions Acts 1990-2018³³

Abbreviation: PA

Date of adoption: 24 July 1990

Entry into force: 21 December 1990

Latest amendment: 23 September 2025

Web link: <http://www.irishstatutebook.ie/eli/1990/act/25/enacted/en/print.html>;
<http://www.irishstatutebook.ie/eli/2004/act/9/section/22/enacted/en/html#sec22>;
<http://www.irishstatutebook.ie/eli/2018/act/37/enacted/en/pdf>.

Grounds covered: age, civil status, disability, family status, gender, race, religion, sexual orientation, Traveller community

Civil law

Material scope: Pensions including occupational pensions

Principal content: Prohibitions of direct and indirect discrimination in relation to occupational pensions

Official title of the law: Irish Human Rights and Equality Commission Act 2014³⁴

Abbreviation: IHRECA

Date of adoption: 27 July 2014

Entry into force: 8 October 2014

Latest amendment: 4 April 2023

Web link: <http://www.irishstatutebook.ie/eli/2014/act/25/enacted/en/html>.

Grounds covered: age, civil status, disability, family status, gender, race, religion, sexual orientation, Traveller community, housing assistance

Civil law

Material scope: All fields covered by the equality directives

Principal content: Establishment of Irish Human Rights and Equality Commission (IHREC) as national equality body; powers and functions of IHREC; positive equality and human rights duty of public sector bodies

Official title of the law: Workplace Relations Act 2015³⁵

Abbreviation: WRA

Date of adoption: 20 May 2015

Entry into force: 1 August 2015

Latest amendment: 16 December 2025

Web link: <http://www.irishstatutebook.ie/eli/2015/act/16/enacted/en/print.html>.

Grounds covered: age, civil status, disability, family status, gender, race, religion, sexual orientation, Traveller community, housing assistance

Administrative law

Material scope: All fields covered by the equality directives bar discrimination on or at point of entry to licensed premises

Principal content: Establishment of Workplace Relations Commission (WRC) as primary forum for hearing anti-discrimination complaints; powers and functions of WRC

³³ Pensions Act 1990, 24 July 1990, <http://www.irishstatutebook.ie/eli/1990/act/25/enacted/en/print.html>; amended by Section 22 of the Social Welfare (Miscellaneous Provisions) Act 2004, 25 March 2004, <http://www.irishstatutebook.ie/eli/2004/act/9/section/22/enacted/en/html#sec22>.

³⁴ Irish Human Rights and Equality Commission Act 2014, 27 July 2014, <http://www.irishstatutebook.ie/eli/2014/act/25/enacted/en/html>.

³⁵ Workplace Relations Act 2015, 20 May 2015, <http://www.irishstatutebook.ie/eli/2015/act/16/enacted/en/print.html>.

1 GENERAL LEGAL FRAMEWORK

Constitutional provisions on protection against discrimination and the promotion of equality

The Constitution of Ireland includes the following articles dealing with non-discrimination:

General clause

Article 40.1 provides: 'All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and social function.'

The grounds covered implicitly by this provision include sex/gender, race, language, religious or political opinions, age, marital status, pedigree and disability.³⁶

This provision appears to apply to all areas covered by the directives. Its material scope is unclear but is broader than those of the directives, in that it extends to access to goods and services on several grounds.

Specific clauses

Article 44.2.3° applies to the religion ground and provides that 'the State shall not impose any disabilities or make any discrimination on the ground of religious profession, belief or status'. With regard to education, the Constitution further provides, under Article 44.2.4°, that 'State aid for schools shall not discriminate between schools under the management of different religious denominations, nor be such as to affect prejudicially the right of any child to attend a school receiving public money without attending religious instruction at that school'.

Article 40.6.2° requires that laws regulating the formation of associations and unions and the right of free assembly shall 'contain no political, religious or class discrimination'.

These provisions are directly applicable.

These provisions cannot be enforced against private individuals (although they can be enforced against the State). Although the matter requires further judicial interpretation, it seems that the general equality clause cannot be enforced against private actors.³⁷ Article 44.2.3° cannot be enforced against private actors.³⁸ The other two provisions listed above explicitly apply only to state activities.

³⁶ Supreme Court, *Murphy v. Ireland and Others* [2014] IESC 19, at paras. 34-35; *Re Article 26 and the Employment Equality Bill 1996* [1997] 2 IR 321; *An Blascaod Mór Teoranta v. Commissioners of Public Works* [2000] 1 IR 6; *MD v. Ireland* [2012] IESC 12; *DX v. Buttimer* [2012] IEHC 175; *Fleming v. Ireland* [2013] IESC 19.

³⁷ High Court, *Equality Authority v. Portmarnock Golf Club* [2005] IEHC 235. O'Higgins J. found that the equality guarantee 'does not impose obligations on citizens in their private relations'. The constitutional issue was not dealt with on appeal. See further: Hogan, G., Whyte, G., Kenny, D., and Walsh, R. (2018), *Kelly: The Irish Constitution*, 5th edition, Dublin, Bloomsbury, at pp. 1572-1573.

³⁸ Supreme Court, *McGrath and O'Ruairc v. The Trustees of Maynooth College* [1979] ILRM 166.

2 THE DEFINITION OF DISCRIMINATION

2.1 Definition of the grounds of unlawful discrimination within the directives

a) Racial or ethnic origin

The race ground under both the Employment Equality Acts (EEA) and the Equal Status Acts (ESA) covers people who are of different 'race, colour, nationality or ethnic or national origin'.³⁹ None of these concepts are defined.

According to case law, 'national origin' is 'acquired by a person at the time of birth and connects that person with one or more groups of people who can be described as a "nation"'.⁴⁰ 'Nationality' is in effect equated with citizenship.⁴¹

Irish case law has yet to engage with the CJEU's judgment in the 'Danish ghetto case' (C-417/23).⁴² Since domestic legislation enables complaints based on 'national origin', including by association, measures directed at migrants and their descendants could be addressed as a form of direct discrimination on that element of the race ground, rather than on the ethnic origin or race aspects of the ground.

Racial origin

Case law has not considered the meaning of 'race' as such.⁴³

Ethnic origin

Under EEA and ESA, the race ground prohibits discrimination against people who are inter alia of a different 'ethnic or national origin'. According to the High Court, 'ethnic origin' under ESA will usually refer to an immutable characteristic over which an individual has no control, while it has been recognised there are 'instances where an individual belonging to one nationality or ethnic group might elect to adhere to another'.⁴⁴ The Court approved of the definition of 'ethnic group' set out by the British House of Lords in *Mandla v. Dowell-*

³⁹ Section 6(2)(h) EEA, Section 3(2)(h) ESA.

⁴⁰ Equality Tribunal, *Curran v. The Department of Education & Science*, DEC-E2009-075, 3 September 2009, at Para. 5.5, <https://www.workplacerelations.ie/en/Cases/2009/September/DEC-E2009-075-Full-Case-Report.html>.

⁴¹ Equality Tribunal, *Sabherwal v. ICTS (UK) Ltd.*, DEC-S2008-037, 11 June 2008, <https://www.workplacerelations.ie/en/Cases/2008/June/DEC-S2008-037-Full-Case-Report.html>; Labour Court, *Kerry County Council v. Jurczewski*, EDA1311, 15 May 2013, <https://www.workplacerelations.ie/en/Cases/2013/May/EDA1311.html>. In a 2023 case the WRC decided that a Northern Irish person could avail of protection against discrimination based on 'nationality': *Browne v. An Garda Síochána*, ADJ-00035114, 15 February 2023, <https://www.workplacerelations.ie/en/cases/2023/adj-00035114.html>.

⁴² Judgment of 18 December 2025, *Slagelse Almennyttige Boligselskab, Afdeling Schackenborgvænge*, C-417/23, ECLI:EU:C:2025:1017.

⁴³ The Labour Court conflated the terms 'race', 'racial origin' and 'ethnic origin' in determining that people of the EU Member States could not be regarded en masse as a racial or ethnic group in *Labour Court, Dublin Institute of Technology v. Awojuola*, EDA 1335, 23 December 2013, <https://www.workplacerelations.ie/en/Cases/2013/December/EDA1335.html>. The case involved a challenge to the criteria used to set admission fees for a course of education in a third-level institution. Lower fee rates applied to EU citizens and persons who had been resident in the EU for at least three of the previous five years. The complainant, a Nigerian national, contended that the criteria gave rise to indirect discrimination on the race ground. In relation to the 'colour' aspect of the ground, according to the Labour Court it 'could readily be accepted that substantially more white people are citizens of the EU Member States than black people and that fewer black people than white people meet the residency criteria for the EU rate of fees chargeable by the respondent'. However, the appropriate pool for comparison was not white and black people in general: 'In order to make out a prima facie case of indirect discrimination it would be necessary for the Complainant to show that a significant imbalance in racial makeup defined by colour exists between those actually charged the EU rate of fees compared to those charged the non-EU rate. No such evidence was adduced, and the Court could not merely assume that such an imbalance exists.'

⁴⁴ *Fitzgerald v. Minister for Community, Equality and Gaeltacht Affairs* [2011] IEHC 180, Para. 10.

Lee.⁴⁵ In that case, Lord Fraser found that such a group must regard itself and be regarded by others as a distinct community by virtue of certain characteristics:

'(1) a long shared history, of which the group is conscious as distinguishing it from other groups, and the memory of which it keeps alive (2) a cultural tradition of its own, including family and social customs and manners, often but not necessarily associated with religious observance. In addition to those two essential characteristics the following characteristics are, in my opinion, relevant: (3) either a common geographical origin, or descent from a small number of common ancestors (4) a common language, not necessarily peculiar to the group (5) a common literature peculiar to the group (6) a common religion different from that of neighbouring groups or from the general community surrounding it (7) being a minority or being an oppressed or a dominant group within a larger community'.⁴⁶

Applying this formula, the High Court concluded that, for the purposes of ESA, farmers are an occupational group, not an ethnic group. The complainant could not, therefore, base a discrimination complaint on his status as a member of the farming community.⁴⁷

Membership of the Traveller community is a separate ground. The 'Traveller community' is defined as 'the community of people commonly known and identified (both by themselves and others) as people with a shared history, culture and traditions including, historically a nomadic way of life on the island of Ireland'.⁴⁸ In a 2024 case, the Workplace Relations Commission (WRC) (the first instance forum for complaints under EEA and ESA) appeared to accept that Roma people are covered by the Traveller community ground in upholding a complaint referred by a Roma man of Romanian national origin on that ground as well as the race ground.⁴⁹ However, in another case the WRC found that the definition of Traveller community did not extend to a Roma man of Slovak national origin, who was covered instead by the ethnic origin element of the race ground.⁵⁰ The WRC has determined that the ground operates asymmetrically, meaning that settled persons do not have *locus standi* to bring complaints.⁵¹

On 1 March 2017 the Taoiseach (Prime Minister) announced that the State formally recognised Travellers as an ethnic group.⁵² According to the Taoiseach's statement, the policy change would 'create no new individual, constitutional or financial rights'.⁵³ Nonetheless, this development has affected how existing provisions are *interpreted*. In 2018, the WRC confirmed for the first time that Travellers were covered by the race ground

⁴⁵ House of Lords, *Mandla v. Dowell Lee* [1983] 2 AC 548, 24 March 1982.

⁴⁶ Per Lord Fraser in *Mandla v. Dowell Lee* at p. 562.

⁴⁷ *Mandla* was applied by the Equality Tribunal in finding that being a 'Catholic Irish Republican' did not constitute a different ethnicity in the context of the case: *Cregan v. Coillte Teoranta*, DEC-E2016-086, 3 June 2016, <https://www.workplacerelations.ie/en/Cases/2016/June/DEC-E2016-086.html>.

⁴⁸ Section 2(1) EEA, Section 2(1) ESA.

⁴⁹ *A Member of the Roma Community v. A Supermarket*, ADJ-00050944, 3 September 2024, <https://www.workplacerelations.ie/en/cases/2024/september/adj-00050944.html>.

⁵⁰ *Dirda v. Lily's Limited trading as Lily O'Brien's*, ADJ-00045849, 7 February 2024, <https://www.workplacerelations.ie/en/cases/2024/february/adj-00045849.html>.

⁵¹ *Hewitt v. Clondalkin Travellers Training Enterprise and Employment Development Co. Ltd*, ADJ-00045969, 26 October 2023, <https://www.workplacerelations.ie/en/cases/2023/october/adj-00045969.html>. A member of the settled community working for a Traveller community development organisation did not have *locus standi* to challenge his exclusion from a training opportunity aimed at Travellers.

⁵² See <https://www.oireachtas.ie/en/debates/debate/dail/2017-03-01/>.

⁵³ The High Court considered the legal status of the policy change in a 2017 case. Justice Eagar held that the Taoiseach's statement had 'no legal effect' and declined an application to amend the reliefs sought in a judicial review application to include, *inter alia*, discrimination on the basis of ethnicity. The applicant Traveller family had sought a series of orders directing the respondent county council to fulfil the duties imposed on it under statute to provide accommodation. According to the Court, while it has been open to the applicants to ground their application on ethnic bias, they did not take that opportunity when applying for leave to apply for judicial review; the amendments sought would amount to an entirely different case to that which had been made by the applicants to date: *Mongans v. Clare County Council* [2017] IEHC 709, 27 October 2017.

as well as the Traveller community ground under EEA and ESA.⁵⁴ The primary ESA case to reach the superior courts on appeal proceeded exclusively as a Traveller-ground case.⁵⁵ The Court omitted to consider the application of the Racial Equality Directive, even though the amicus submission of the Equality Authority argued that the Directive should be deployed in interpreting the ESA provisions on indirect discrimination as applying to the Traveller ground.⁵⁶ It should now be clear that the Directive is applicable in all cases involving Travellers and falling within its material scope.

b) Religion or belief

Religion

Under ESA and EEA, the 'religion ground' applies as between people where 'one has a different religious belief from the other, or that one has a religious belief and the other has not'.⁵⁷ 'Religious belief' is defined as 'religious background or outlook'.⁵⁸ Religious background has been interpreted as affording protection to members of 'a specific faith', while the term 'outlook' covers 'specific attitudes which go with a religious belief'.⁵⁹ Being a 'spiritual guide' does not fall within the ground, since it is not specific to a particular faith or to a set of religious beliefs.⁶⁰

While Irish forums have yet to consider the definition of religion first set out in the *Achbita* case,⁶¹ the Labour Court has determined that protection extends to manifestations of beliefs relating to religious teaching or observance. In an employment context, however, the right to engage in the practice or manifestation of religion could not be exercised 'in a way that is disruptive of the business of the employer or constitutes an interference with the legitimate interests of the employer'.⁶²

Belief

National legislation does not refer to philosophical beliefs. It appears from the wording of the provisions concerning discrimination on the religion ground that the belief in question must be a religious one and so the provisions do not adequately prohibit discrimination on the grounds of religion or belief.

⁵⁴ Several of these cases reference the 2017 recognition of Traveller ethnicity: Workplace Relations Commission, *O'Donoghue v. The Minister for Social Protection*, DEC-S2018-014, 5 June 2018, <https://www.workplacerelations.ie/en/Cases/2018/June/DEC-S2018-014.html>; Workplace Relations Commission, *Sherlock and 8 others v. Environmental Health Services*, DEC-S2018-017, 14 September 2018, <https://www.workplacerelations.ie/en/Cases/2018/September/DEC-S2018-017.html>; Workplace Relations Commission, *Mr. & Mrs. S & their children v. Clare County Council & Department of Social Protection*, DEC-S2018-029, 12 December 2018, <https://www.workplacerelations.ie/en/Cases/2018/December/DEC-S2018-029.html>. See also Workplace Relations Commission, *Michael and Anne O'Donoghue and their children v. Clare County Council*, DEC-S2018-002, 27 February 2018, <https://www.workplacerelations.ie/en/Cases/2018/February/DEC-S2018-002.html>.

⁵⁵ Supreme Court, *Stokes v. Christian Brothers High School* [2015] IESC 13, 24 February 2015.

⁵⁶ See: https://www.ihrec.ie/app/uploads/download/pdf/mary_stokes_v_christian_brothers_high_school_clonmel_or_13_dec_2012.pdf.

⁵⁷ Section 6(2)(e) EEA; Section 3(2)(e) ESA.

⁵⁸ Section 2(1) EEA; Section 2(1) ESA.

⁵⁹ Equality Tribunal, *A Teacher v. A National School*, DEC-E2014-097, 30 December 2014, <https://www.workplacerelations.ie/en/Cases/2014/December/DEC-E2014-097.html>.

⁶⁰ Workplace Relations Commission, *Jones v. CPL PLC t/a CPL Recruitment Agency*, ADJ-00010354, 8 June 2018, <https://www.workplacerelations.ie/en/cases/2014/december/dec-e2014-097.html>.

⁶¹ Judgment of 14 March 2017, *Achbita v. G4S Secure Solutions NV*, C-157/15, ECLI:EU:C:2017:203; Judgment of 15 July 2021, *IX v. WABE eV and MH Müller Handels GmbH v. MJ*, Joined cases C-804/18 and C-341/19, ECLI:EU:C:2021:594.

⁶² Labour Court, *Tipperary County Council v. McAteer*, EDA 3/2015, 30 January 2015, <https://www.workplacerelations.ie/en/Cases/2015/January/EDA153.html>.

The Labour Court appears to accept that humanist beliefs may be covered, but apparently as constituting a lack of religious belief similar to atheism⁶³ and not because humanism could be considered a 'religious belief'.⁶⁴ In a 2016 decision, the WRC rejected the complaint of an individual who was not permitted to wear a colander on his head for the purposes of a photograph when he was making an application to renew his driver's licence.⁶⁵ The complainant argued that the action was discriminatory, as wearing such an item was a feature of his religious beliefs as a 'Pastafarian', and the respondent's guidelines permitted individuals to wear head coverings for religious reasons. Having reviewed the definitions of religion and philosophical belief developed in case law under the UK Equality Act 2010, the WRC determined that the belief system in question did not constitute a 'religious belief' for the purposes of ESA. In reaching that conclusion the WRC referred to the fact that Pastafarianism uses 'satire as an effective tool of communication' and to the 'occasional and selective nature' of the complainant's use of the colander. While the precise basis for the finding is not clear, the WRC's reference to a definition of philosophical belief suggests that it may be prepared to interpret the provision broadly.

In several 2022 WRC decisions, the religion ground was invoked by persons complaining of adverse treatment relating to the pandemic. The issues raised were a requirement to undergo COVID-19 testing at work;⁶⁶ an obligation to produce a vaccine certificate to access the premises in which an interview was to take place;⁶⁷ and alleged discrimination arising from attendance at a protest against public health measures.⁶⁸ Each complainant failed to adduce any evidence that they were covered by the religion ground, with the WRC noting in the protest-related case that political views or beliefs do not constitute one of the discriminatory grounds under EEA. A 2023 WRC decision found that declining to undergo vaccination against the COVID-19 virus was a personal choice and not a requirement of the Christian Science faith. Consequently, a member of that faith failed to establish that a nursing home discriminated on the religion ground in refusing her access to employment.⁶⁹

c) Disability

Under EEA and ESA, the disability ground applies where 'one is a person with a disability and the other either is not or is a person with a different disability'.⁷⁰ Disability is defined as:

'(a) the total or partial absence of a person's bodily or mental functions, including the absence of a part of a person's body;

⁶³ A complaint of direct discrimination comprising less favourable treatment between an atheist pupil and Roman Catholic students at a school was upheld in: Workplace Relations Commission, *A Student v. A School*, ADJ-00023650, 24 April 2020, <https://www.workplacerelations.ie/en/cases/2020/april/adj-00023650.html>.

⁶⁴ Labour Court, *Department of Defence v. Barrett*, EET081, 20 May 2008, <https://www.workplacerelations.ie/en/Cases/2008/May/EET081.html>.

⁶⁵ Workplace Relations Commission, *Mulryan v. Road Safety Authority*, DEC-S2016-018, 9 March 2016, <https://www.workplacerelations.ie/en/Cases/2016/March/DEC-S2016-018.html>, applied in Workplace Relations Commission, *Hamill v. Dublin City Council*, ADJ-00011817, 31 October 2018, <https://www.workplacerelations.ie/en/Cases/2019/October/ADJ-00011817.html>.

⁶⁶ *Fabricijus v. Hilton Foods Ireland*, ADJ-00032035, 11 May 2022, <https://www.workplacerelations.ie/en/cases/2022/may/adj-00032035.html>.

⁶⁷ *Bukauskaite v. Laurel Lodge Nursing Home*, ADJ-00036423, 9 September 2022, <https://www.workplacerelations.ie/en/cases/2022/september/adj-00036423.html>.

⁶⁸ *Lynch v. St Vincents Healthcare Group*, ADJ-00035855, 15 November 2022, <https://www.workplacerelations.ie/en/cases/2022/november/adj-00035855.html>.

⁶⁹ Workplace Relations Commission, *Ellis v. Araglen House Nursing Home*, ADJ-00037224, 6 May 2023, <https://www.workplacerelations.ie/en/cases/2023/june/adj-00037224.html>. See also the ESA cases of *Taaffe v. DKIT Sport Gym*, ADJ-00037264, 7 March 2023, <https://www.workplacerelations.ie/en/cases/2023/march/adj-00037264.html>: a belief that the vaccine was 'made from aborted fetuses which are dissected in a satanic manner' was not inherent to Catholicism; *Savage v. Secure Management Solutions Limited*, ADJ-00034365, 20 January 2025, <https://www.workplacerelations.ie/en/cases/2025/january/adj-00034365.html>: a belief that the pandemic was not real is a personal opinion or worldview and not a tenet of Christian Evangelicalism.

⁷⁰ Section 28(1)(f) EEA; Section 3(2)(g) ESA.

- (b) the presence in the body of organisms causing, or likely to cause, chronic disease or illness;
- (c) the malfunction, malformation or disfigurement of a part of a person's body;
- (d) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction; or
- (e) a condition, illness or disease which affects a person's thought processes, perception of reality, emotions or judgment or which results in disturbed behaviour.⁷¹

The ground covers those who have a disability at present, a history of disability, may have a disability in the future or are imputed a disability.⁷² In 2018, the Labour Court held that the ground operates asymmetrically, so that non-disabled persons do not have *locus standi* to bring a disability-ground complaint.⁷³

The definition of disability does not fully accord with the concept adopted by the Court of Justice of the European Union (CJEU) in *HK Danmark (Ring and Skouboe Werge)*,⁷⁴ in that it does not explicitly refer to barriers that may hinder the full and effective participation of a person in professional life on an equal basis with others. In general, Irish courts do not consider the interaction between an impairment/condition and a person's professional life when determining whether a complainant has a disability. Rather a complainant must demonstrate that they have, have had, or may in future have one of the conditions listed in paragraphs (a) to (e) of the statutory definition. When applying the duty to reasonably accommodate, adjudicators require employers to comprehensively consider how work practices and the general employment environment might be adjusted to eliminate barriers to participation in employment.⁷⁵

The Irish definition does not require a condition to last a long time in order to qualify as a disability,⁷⁶ nor does it make the distinction between disability and illness.⁷⁷ For instance, in a 2025 decision, the WRC found that a temporary condition, allergic eczema, constituted a disability.⁷⁸ In 2019, the Labour Court issued a determination which appeared to endorse the more restrictive understanding of disability developed by the CJEU in the sense that a limitation arising from an illness must be long-term.⁷⁹ However, in a 2023 case the Court underlined that the domestic definition is 'broader' than that developed by the CJEU and cited case law on non-retrogression principles set out in Directive 2000/78/EC.⁸⁰

A 2018 case established that infertility was a disability for the purposes of EEA, as it could be said to result from a 'malfunction... of a part of a person's body' as set out under Section 2(1)(c).⁸¹ The respondent in a 2019 complaint disputed the designation of

⁷¹ Section 2(1) EEA; Section 2(1) ESA.

⁷² Section 2(1) EEA; Section 3(1)(a) ESA.

⁷³ Labour Court, *Navan Education Centre v. Lydon*, EDA 1848, 11 December 2018, <https://www.workplacerelations.ie/en/Cases/2018/December/EDA1848.html>. This decision is discussed in Section 5(a).

⁷⁴ Judgment of 11 April 2013, *HK Danmark (Ring and Skouboe Werge)*, joined cases [C-335/11](#) and [C-337/11](#), ECLI:EU:C:2013:222.

⁷⁵ Supreme Court, *Nano Nagle School v. Daly* [2019] IESC 63, 31 July 2019.

⁷⁶ See, for example, Labour Court, *Cregg Labour Solutions v. Cahill*, EDA1634, 1 December 2016, <http://www.workplacerelations.ie/en/Cases/2016/December/EDA1634.html>.

⁷⁷ A person who has recovered from an illness and returns to employment following sick leave will not automatically have a disability as defined under EEA, such a finding rests on the facts. See Workplace Relations Commission, *An Employee v. A Cleaning Company*, DEC-E2017-065, 4 September 2017, <https://www.workplacerelations.ie/en/Cases/2017/September/DEC-E2017-065.html>; Workplace Relations Commission, *Sales Assistant v. Retailer*, 25 February 2020, ADJ-00019501, <https://www.workplacerelations.ie/en/cases/2020/february/adj-00019501.html>.

⁷⁸ Workplace Relations Commission, *Musinska v. Oak Central Recruitment Services Limited*, ADJ-00053914, 6 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj-00053914.html>.

⁷⁹ Labour Court, *Houses of the Oireachtas v. Hickey*, EDA1918, 11 June 2019, <https://www.workplacerelations.ie/en/cases/2019/june/eda1918.html>.

⁸⁰ Labour Court, *Phibsboro Cat Rescue v. Davis*, EDA2334, 7 September 2023, <https://www.workplacerelations.ie/en/cases/2023/september/eda2334.html>.

⁸¹ Workplace Relations Commission, *A Quality Control Assistant v. A Grocery Retailer*, ADJ-00005772, 20 March 2018, <https://www.workplacerelations.ie/en/cases/2018/march/adj-00005772.html>.

fibromyalgia as a 'disability'.⁸² In light of the medical evidence presented by both parties, the WRC concluded that the complainant's fibromyalgia constituted 'a condition, illness or disease which affects a person's thought processes, perception of reality, emotions or judgment or which results in disturbed behaviour', under Section 2(1)(e) EEA. The manifestations of the condition included excessive fatigue, difficulty coping and concentrating, mood variation and generalised muscle pain. They were long-term, had a significant impact on the complainant and hindered her full and effective participation in the workplace on an equal basis with others. Thus, the condition amounted to a disability in line with *HK Danmark*, as well as Irish law.

Several decisions have confirmed that alcoholism is covered by the ground.⁸³ In the foundational case, the Labour Court stated that it had 'no hesitation' in finding that alcoholism is covered by subsection (e) of the definition, which refers to a 'condition, illness or disease which affects a person's thought processes, perception of reality, emotions or judgment or which results in disturbed behaviour'.⁸⁴ Long COVID was found to constitute a disability in two 2024 decisions.⁸⁵

Stress caused by the illness of a relative or loved one is not 'an abnormality or malfunction', according to the Labour Court. It is 'a normal human condition' and cannot be classified as a disability.⁸⁶ Literacy difficulties stemming from poor educational opportunities, as opposed to a 'condition or malfunction', do not constitute a disability for the purposes of EEA.⁸⁷

d) Age

The age ground is defined as referring to people of different ages,⁸⁸ but in employment applies only in relation to persons above the maximum age at which a person is statutorily obliged to attend school.⁸⁹ In access to goods and services it does not apply to persons aged under 18.⁹⁰

e) Sexual orientation

Sexual orientation is defined as 'heterosexual, homosexual or bisexual orientation', without further elaboration.⁹¹ Case law has not explored the meaning of those terms. Gay and

⁸² Workplace Relations Commission, *Costello v. Allied Irish Bank plc*, DEC-E2019-007, 13 September 2019, <https://www.workplacerelations.ie/en/cases/2019/september/dec-e2019-007.html>.

⁸³ For example, Workplace Relations Commission, *Murphy v. Michael Connolly & Sons Limited Supervalu Supermarket*, ADJ-00034343, 13 October 2022, <https://www.workplacerelations.ie/en/cases/2022/october/adj-00034343.html>; *Murphy v. Office of the Director of Public Prosecutions*, ADJ-00045153, 4 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj-00045153.html>.

⁸⁴ Labour Court, *A Government Department v. An Employee*, EDA062, 14 February 2006, <https://www.workplacerelations.ie/en/cases/2006/february/eda062.html>.

⁸⁵ Workplace Relations Commission, *Gahan v. Pobal*, ADJ-00040270, 8 March 2024, <https://www.workplacerelations.ie/en/cases/2024/march/adj-00040270.html>; *Gourley v. Mason Hayes & Curran LLP*, ADJ-00049048, 16 April 2024, <https://www.workplacerelations.ie/en/cases/2024/april/adj-00049048.html>.

⁸⁶ Labour Court, *Health Service Executive North West v. Killoran*, EDA1830, 30 April 2018, <https://www.workplacerelations.ie/en/cases/2018/april/eda1830.html>.

⁸⁷ Workplace Relations Commission, *Cleaning Technician v. Facilities Contractor*, ADJ-00029550, 8 November 2022, <https://www.workplacerelations.ie/en/cases/2022/november/adj-00029550.html>. Although not referenced in the decision, this finding is in line with previous ESA determinations: Equality Tribunal, *Two Complainants (a mother and her son) v. A Primary School*, DEC-S2006-028, 6 April 2006, <https://www.workplacerelations.ie/en/cases/2006/april/dec-s2006-028-full-case-report.html>, at para 4.3; Workplace Relations Commission, *Mr. S v. The Minister for Employment Affairs and Social Protection*, DEC-S2019-003, 1 February 2019, <https://www.workplacerelations.ie/en/Cases/2019/February/DEC-S2019-003.html>.

⁸⁸ Section 6(1)(f) EEA; Section 3(2)(f) ESA.

⁸⁹ Section 6(3)(a) EEA.

⁹⁰ Section 3(3)(a) ESA.

⁹¹ Section 2(1) EEA; Section 2(1) ESA.

lesbian people have pursued the majority of complaints on the ground under both ESA and EEA, with some on the 'bisexual'⁹² and 'heterosexual'⁹³ aspects of the ground.

2.2 Multiple and intersectional discrimination

In Ireland, multiple discrimination is not prohibited by law.

In Ireland, multiple discrimination is not taken into account when deciding on discrimination cases (e.g. when imposing a sanction).

In Ireland, intersectional discrimination is not prohibited by law.

In Ireland, intersectional discrimination is not taken into account when deciding on discrimination cases (e.g. when imposing a sanction).

Complaints may be referred on more than one ground. However, the legislation specifies that while complaints lodged on several grounds must be investigated as a single case, a decision must be made on each of the claims.⁹⁴ In practice, adjudicators deal with the grounds in turn, requiring a case to be established separately on each ground.⁹⁵ Even where a complaint succeeds on several discriminatory grounds the applicable compensation limits apply.

In Ireland, the following case law deals with multiple and/or intersectional discrimination.

In a limited number of cases, the first instance forum for hearing discrimination law complaints has tacitly recognised multiple discrimination. In an equal pay case, *O'Brien v. ComputerScope Limited*,⁹⁶ the issues of age and gender were treated together, perhaps because the actual comparators were both of a different gender and a different age from the complainant. The employer was directed to pay arrears of remuneration and EUR 5 000 in compensation, with interest payable only on half those amounts, since interest may be awarded only in gender-ground cases under Section 82(5) EEA. In other cases, it was determined that discrimination on one ground was 'compounded' by discrimination on another ground; the role of the two grounds concerned is differentiated in the decisions.⁹⁷ In one of those decisions, the Tribunal stated that in calculating compensation it had 'taken into account all of the circumstances of the case, including the fact that discrimination on grounds of gender was compounded by discrimination on grounds of race'.⁹⁸ *Lindberg v. Press Photographers Association of Ireland*⁹⁹ is notable for a finding that direct discrimination arose from a *combination* of the race and gender grounds. The complainant was awarded EUR 1 000 in compensation with no reference made to the separate grounds.

⁹² For example, Equality Tribunal, *A Complainant v. A Fast Food Franchise*, DEC-S2008-036, 11 June 2008, <https://www.workplacerelations.ie/en/cases/2008/june/dec-s2008-036-full-case-report.html>; Workplace Relations Commission, *A Personal Trainer v. A Gym*, ADJ-00044525, 16 May 2024, <https://www.workplacerelations.ie/en/cases/2024/may/adj-00044525.html>.

⁹³ For example, Workplace Relations Commission, *A Job Applicant v. A Public Body*, ADJ-00049321, 20 May 2024, <https://www.workplacerelations.ie/en/cases/2024/may/adj-00049321.html>.

⁹⁴ Section 79(1)(A) EEA; Section 25(1)(A) ESA.

⁹⁵ In *Superquinn v. Freeman*, DEE0211, 14 November 2002, the Labour Court overturned an Equality Tribunal finding apparently on the basis that the first instance body had failed to require the complainant to establish a prima facie case of discrimination on each ground separately.

⁹⁶ Equality Tribunal, DEC-E2006-030, 1 August 2006, <https://www.workplacerelations.ie/en/cases/2006/august/dec-e2006-030-full-case-report.html>.

⁹⁷ Equality Tribunal, *Luzak v. Sales Placement Ltd*, DEC-E2011-010, 24 January 2011, <https://www.workplacerelations.ie/en/cases/2011/january/dec-e2011-010-full-case-report.html>; Equality Tribunal, *McDermott v. Connacht Gold Cooperative Society Ltd*, DEC-E2011-147, 4 August 2011, <https://www.workplacerelations.ie/en/cases/2011/august/dec-e2011-147-full-case-report.html>.

⁹⁸ Equality Tribunal, *Luzak v. Sales Placement Ltd*, DEC-E2011-010, 24 January 2011, Para. 7.1, <https://www.workplacerelations.ie/en/cases/2011/january/dec-e2011-010-full-case-report.html>.

⁹⁹ Equality Tribunal, DEC-S2011-041, 5 October 2011, <https://www.workplacerelations.ie/en/cases/2011/october/dec-s2011-041-full-case-report.html>.

In the more recent case of *Parris v. Trinity College Dublin*¹⁰⁰ the Equality Tribunal accepted in principle that a prima facie case of indirect discrimination could arise from a combination of discriminatory grounds. However, on a request for a preliminary ruling, the CJEU determined that, where a national rule does not constitute discrimination either on the ground of sexual orientation or on the ground of age taken in isolation, there is 'no new category of discrimination resulting from the combination of more than one of those grounds'.¹⁰¹

The approach to multiple discrimination adopted in the Tribunal decisions set out above is exceptional. In a 2025 decision, the WRC expressly considered whether intersectional complaints are contemplated under ESA and found that they are not (see case summary in Section 12.2).¹⁰² IHREC's 2023 submission to the ongoing review of Ireland's anti-discrimination laws reiterates its call for an explicit prohibition on intersectional discrimination.¹⁰³

2.3 Assumed and associated discrimination

a) Discrimination by assumption

In Ireland, discrimination based on a perception or assumption of a person's characteristics is prohibited in national law.

Section 6(1)(a)(iv) EEA provides:

'6(1) For the purposes of this Act and without prejudice to its provisions relating to discrimination occurring in particular circumstances, discrimination shall be taken to occur where— (a) a person is treated less favourably than another person is, has been or would be treated in a comparable situation on any of the grounds specified in subsection (2) (in this Act referred to as the "discriminatory grounds") which ... (iv) is imputed to the person concerned.'

A decision under EEA found that an employee who had been treated less favourably because of her body mass had been subjected to disability discrimination by assumption.¹⁰⁴ The Equality Tribunal did not make a finding as to whether obesity of itself is a disability. Irish law thereby recognises that obesity may be a basis for a disability discrimination complaint, albeit in a different manner from the CJEU judgment in *FOA (Kaltoft) v. Billund*.¹⁰⁵

¹⁰⁰ DEC-P2013-004, 16 December 2013, <https://www.workplacerelations.ie/en/Cases/2013/December/DEC-P2013-004.html>.

¹⁰¹ Judgment of 24 December 2016, *Parris v. Trinity College Dublin and others*, C-443/15, ECLI:EU:C:2016:897, Para. 80.

¹⁰² Workplace Relations Commission, *Nae v. Tempus Ltd Polonez*, ADJ-00046437 17 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj-00046437.html>.

¹⁰³ Irish Human Rights and Equality Commission (2023), *Submission on the review of the Equality Acts*, pp. 68–69.

¹⁰⁴ Equality Tribunal, *A Health Service Employee v. Health Service Executive*, DEC-E2006-013, 10 April 2006, <https://www.workplacerelations.ie/en/Cases/2006/April/DEC-E2006-013-Full-Case-Report.html>: the complainant was unlawfully denied access to a post when the respondent imputed a disability to her.

¹⁰⁵ Judgment of 18 December 2014, *FOA (Kaltoft) v. Billund*, Case C-354/13, ECLI:EU:C:2014:2463. In a 2023 case, the complainant cited this case in support of his argument that obesity comprises a disability: Workplace Relations Commission, *Glynn v. Ray Whelan Limited*, ADJ-00031267, 29 March 2023, <https://www.workplacerelations.ie/en/cases/2023/march/adj-00031267.html>. He also had diabetes, asthma and a 'respiratory condition'. The WRC found that these conditions satisfied the definition of disability under EEA, without specifically addressing the *FOA (Kaltoft)* precedent: 'I am satisfied that the Complainant has demonstrated that the medical conditions affecting him at the material time relevant to the within complaint were of such a nature to constitute a disability within the meaning of... Section 2(1) of the Acts.'

A prospective employee who was assumed to have a psycho-social disability and advised to obtain treatment for that non-existent condition was discriminated against in a 2024 case.¹⁰⁶

Section 3(1)(a)(iv) ESA states:

'3(1) For the purposes of this Act, discrimination shall be taken to occur— (a) where a person is treated less favourably than another person is, has been or would be treated in a comparable situation on any of the grounds specified in *subsection (2)* (in this Act referred to as the "discriminatory grounds") which... (iv) is imputed to the person concerned.'

An Irish citizen born in Indonesia lodged a successful race-ground complaint concerning correspondence issued by the Department of Social Protection.¹⁰⁷ She was sent a series of letters seeking proof of her nationality in the context of accessing child benefit payments. The respondent acknowledged that such correspondence was issued to non-Irish nationals as an anti-fraud measure. The WRC found that the Department's practice was a clear form of direct discrimination in contravention of ESA and that the complainant had been subjected to less favourable treatment based on an assumption as to her race (nationality). An order for EUR 3 000 in compensation was made and the respondent was directed to review its fraud detection practices for the child benefit scheme to ensure compliance with ESA.¹⁰⁸

b) Discrimination by association

In Ireland, discrimination based on association with persons with particular characteristics is prohibited in national law.

Section 6(1)(b) EEA provides:

'6(1) For the purposes of this Act and without prejudice to its provisions relating to discrimination occurring in particular circumstances, discrimination shall be taken to occur where... (b) a person who is associated with another person
(i) is treated, by virtue of that association, less favourably than a person who is not so associated is, has been or would be treated in a comparable situation, and
(ii) similar treatment of that other person on any of the discriminatory grounds would... constitute discrimination.'

Discrimination by association on the ground of sexual orientation was established in a 2015 case.¹⁰⁹ The complainant, a teacher, was discriminated against when a school principal made insulting comments about her son's sexual orientation.

Section 3(1)(b) ESA states:

'3(1) For the purposes of this Act, discrimination shall be taken to occur...
(b) where a person who is associated with another person
(i) is treated, by virtue of that association, less favourably than a person who is not so associated is, has been or would be treated in a comparable situation, and

¹⁰⁶ Workplace Relations Commission, *A Complainant v. The Trustees of a Mental Health Charity*, ADJ-00042789, 20 June 2024, <https://www.workplacerelations.ie/en/cases/2024/adj-00042789.html>.

¹⁰⁷ Workplace Relations Commission, *Smith v. Department of Social Protection*, DEC-S2015-014, 20 October 2015, <https://www.workplacerelations.ie/en/Cases/2015/October/DEC-S2015-014.html>.

¹⁰⁸ See also Workplace Relations Commission, *Roche v. JD Sports*, ADJ-00011879, 31 July 2018, <https://www.workplacerelations.ie/en/Cases/2018/July/ADJ-00011879.html>: a direct discrimination complaint against a shop, which entailed imputation of a Traveller community identity, was upheld.

¹⁰⁹ Workplace Relations Commission, *Marron v. Board of Management of St Paul's National School*, DEC-E2015-121, November 2015, <https://www.workplacerelations.ie/en/Cases/2015/November/DEC-E2015-121.html>.

(ii) similar treatment of that other person on any of the discriminatory grounds would... constitute discrimination.’

Several complaints of discrimination by association have been established under ESA, many on the Traveller community ground. For example, in *Battles v. The Killarney Heights Hotel* the complainant, a Traveller, and her husband, a settled person, had been discriminated against when refused service in a hotel. Mr Battles’ claim was that of discrimination by association under Section 3(1)(b).¹¹⁰ A similar finding was reached in a 2023 case concerning several family members, one of whom was discriminated against by association.¹¹¹

Discrimination by association on the victimisation ground has occurred in several cases, such as *O’Brien v. Dunnes Stores, Tralee*.¹¹² A man was refused access to a store some weeks after his brother had been asked to leave while he was shopping there. The brother had notified the respondent in writing that he intended to lodge a discrimination complaint. When the complainant tried to enter the shop, he was denied access by a security guard who told him that it was because his brother ‘was taking a case to the court’. By suggesting that he was going to refer a complaint, the man’s brother was covered by the victimisation ground. The victimisation ground protects people from adverse treatment for using or indicating an intention to use ESA. In being denied access a few weeks later, the complainant was therefore treated less favourably by virtue of his association with someone covered by a discriminatory ground.

National law is in line with the judgment in Case C-303/06, *Coleman v. Attridge Law and Steve Law*.¹¹³ In that case, the CJEU determined that protection from direct discrimination and harassment under Directive 2000/78/EC is not limited solely to persons possessing the protected characteristic in question. Thus, the mother of a child could claim that an employer treated her less favourably and engaged in harassment because of her child’s disability.¹¹⁴ *Coleman* has been cited by the WRC in finding that discrimination by association is not applicable to reasonable accommodation.¹¹⁵ Irish case law has yet to engage with the CJEU’s judgment in *Bervidi*.¹¹⁶ To date, a few WRC decisions have referred

¹¹⁰ Equality Tribunal, DEC-S2004-143/144, 11 October 2004, <https://www.workplacerelations.ie/en/Cases/2004/October/DEC-S2004-143-144-Full-Case-Report.html>. See also Equality Tribunal, *Sweeney v. The Ship Inn, Sligo*, DEC-S2002-032, 30 April 2002, <https://www.workplacerelations.ie/en/cases/2002/april/dec-s2002-032.html>; *Dooley and Boyne v. The Grand Hotel*, DEC-S2002-015/016, 8 March 2002, <https://www.workplacerelations.ie/en/cases/2002/march/dec-s2002-015-dec-s2002-016.html>; *Feighery v. MacMathuna’s Pub*, DEC-S2003-051, 4 June 2003, <https://www.workplacerelations.ie/en/cases/2003/june/dec-2003-051-full-case-report.html>; *Kiernan v. The Newbury Hotel*, DEC-S2006-080, 17 November 2006, <https://www.workplacerelations.ie/en/cases/2006/november/dec-s2006-080-full-case-report.html>; *McDonagh v. O’Keeffe, Ocean View Park*, DEC-S2005-161/164, 28 October 2005, <https://www.workplacerelations.ie/en/cases/2005/october/dec-s2005-161-164-full-case-report.html> (all of which were successful claims of discrimination by association on the Traveller community ground).

¹¹¹ Workplace Relations Commission, *O’Donovan v. Oriel House Hotel Limited t/a Oriel House Hotel*, ADJ-00036524, 25 October 2023, <https://www.workplacerelations.ie/en/cases/2023/october/adj-00036524.html>.

¹¹² Equality Tribunal, *O’Brien v. Dunnes Stores, Tralee*, DEC-S2007-038, 30 March 2007, <https://www.workplacerelations.ie/en/Cases/2007/March/DEC-S2007-038-Full-Case-Report.html>. See also Equality Tribunal, *Palmer v. Connacht Hospitality (Group) Ltd. aka Connacht Accommodation Ltd t/a Active Fitness Leisure Club at the Connacht Hotel*, DEC-S2015-009, 29 June 2015, <https://www.workplacerelations.ie/en/Cases/2015/June/DEC-S2015-009.html>.

¹¹³ Judgment of 17 July 2008, *Coleman v. Attridge Law and Steve Law*, Case C-303/06, ECLI:EU:C:2008:415.

¹¹⁴ *Coleman* has been applied by adjudicators in several cases, including Workplace Relations Commission, *A Former Employee v. A Financial Services Company*, DEC-E2016-107, 19 July 2016, <https://www.workplacerelations.ie/en/Cases/2016/July/DEC-E2016-107.html>; Labour Court, *A Worker v. Two respondents*, EDA1129, 22 November 2011, <https://www.workplacerelations.ie/en/Cases/2011/November/EDA1129.html>.

¹¹⁵ Workplace Relations Commission, *Neuray v. LIRG5 Ltd*, ADJ-00029639, 2 March 2022, <https://www.workplacerelations.ie/en/cases/2022/march/adj-00029639.html>; *Enhanced Senior Staff Nurse Worker v. Residential Care Service*, ADJ-00035071, 8 March 2023, <https://www.workplacerelations.ie/en/cases/2023/march/adj-00035071.html>.

¹¹⁶ Judgment of 11 September 2025, *Bervidi*, Case C-38/24, ECLI:EU:C:2025:690.

to Case C-83/14, *CHEZ Razpredelenie Bulgaria AD v. Komisia za zashtita ot diskriminatsia*, but since none pertained to indirect discrimination by association, it remains to be seen whether domestic law is aligned with that judgment.¹¹⁷

2.4 Direct discrimination (Article 2(2)(a))

a) Prohibition and definition of direct discrimination

In Ireland, direct discrimination is prohibited in national law. It is defined under both EEA and ESA as occurring where a person is treated less favourably than another person is, has been or would be treated in a comparable situation on any of the discriminatory grounds, which exists, existed but no longer exists, or may exist in the future.¹¹⁸

As in previous years, several complaints of direct discrimination were upheld in 2025. Examples of EEA cases include:

Age ground: conditions of employment;¹¹⁹ discriminatory dismissal.¹²⁰

Disability ground: access to employment;¹²¹ conditions of employment;¹²² promotion;¹²³ discriminatory dismissal.¹²⁴

Race ground: conditions of employment;¹²⁵ promotion;¹²⁶ discriminatory dismissal.¹²⁷

¹¹⁷ For example, Workplace Relations Commission, *A Nurse v. A Hospital*, ADJ-00008073, 23 April 2018, <https://www.workplacerelations.ie/en/Cases/2018/April/ADJ-00008073.html>; *A Tenant v. A Letting Agency*, ADJ-00006003, 12 April 2017, <https://www.workplacerelations.ie/en/Cases/2017/April/ADJ-00006003.html>; *An Asylum Seeker v. A Statutory Body*, ADJ-00020743, 28 January 2020, <https://www.workplacerelations.ie/en/cases/2020/january/adj-00020743.html>; *Kearney v. Workplace Relations Commission*, ADJ-00031944, 17 December 2021, <https://www.workplacerelations.ie/en/cases/2021/december/adj-00031944.html>.

¹¹⁸ Section 6(1) EEA; Section 3(1) ESA. Both sections go on to prohibit discrimination by assumption and by association (see Section 2.3).

¹¹⁹ Workplace Relations Commission, *Byrne v. Health Service Executive*, ADJ-00046620, 14 May 2025, <https://www.workplacerelations.ie/en/cases/2025/may/adj-00046620.html>: repeatedly sending letters pressuring the complainant to retire amounted to direct discrimination.

¹²⁰ See, for example, Workplace Relations Commission, *Mooney v. The Hairy Lemon*, ADJ-00051372, 5 February 2025, <https://www.workplacerelations.ie/en/cases/2025/january/adj-00051372.html>; *Kitterick v. Mayo County Fire Service*, ADJ-00050808, 3 April 2025, <https://www.workplacerelations.ie/en/cases/2025/april/adj-00050808.html>.

¹²¹ Workplace Relations Commission, *A Job Applicant v. A Garden Centre*, ADJ-00052022, 7 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj-00052022.html> (summarised in Section 12.2).

¹²² See, for example, Workplace Relations Commission, *A Clerical Officer v. A Government Department*, ADJ-00049202, 12 February 2025, <https://www.workplacerelations.ie/en/cases/2025/february/adj-00049202.html>.

¹²³ Workplace Relations Commission, *An Employee v. A Detention Facility*, ADJ-00038087, 19 September 2025, <https://www.workplacerelations.ie/en/cases/2025/september/adj-00038087.html>.

¹²⁴ See, for example, Workplace Relations Commission, *Rice v. Tesco Ireland Limited*, ADJ-00049598, 16 January 2025, <https://www.workplacerelations.ie/en/cases/2025/january/adj-00049598.html>; *Silva v. Bellew Food Company Limited Finnegan's Farm*, ADJ-00056499, 11 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/adj-00056499.html>; *Barton v. MGM Boats (Cork) Limited*, ADJ-00049885, 18 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/adj-00049885.html>; *Doyle v. Applus Inspection Services Limited*, ADJ-00054466, 24 September 2025, <https://www.workplacerelations.ie/en/cases/2025/september/adj-00054466.html>; *Jackson v. K F Moda Ltd*, ADJ-00056560, 27 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj-00056560.html>.

¹²⁵ Workplace Relations Commission, *Gao v. Eskimo Gao Ming Limited Lam's Asian Cuisine and Eskimo Pizza*, ADJ-00053911, 10 October 2025, <https://www.workplacerelations.ie/en/cases/2025/october/adj-00053911.html> (see case summary in Section 12.2).

¹²⁶ Workplace Relations Commission, *Kelly v. Saint John of God Community Services*, ADJ-00053416, 22 September 2025, <https://www.workplacerelations.ie/en/cases/2025/september/adj-00053416.html>.

¹²⁷ Workplace Relations Commission, *Reid v. Murrays Ambulance Service*, ADJ-00052844, 2 December 2025, <https://www.workplacerelations.ie/en/cases/2025/december/adj-00052844.html> (see case summary in Section 12.2).

Several complaints of direct discrimination on the Traveller community ground were also determined in 2025, three of which were upheld.¹²⁸ Those cases involved discriminatory dismissals¹²⁹ and working conditions.¹³⁰

None of the complaints heard on the religion ground in 2025 was upheld.¹³¹

Two decisions on the sexual orientation ground were issued in 2025. In the first, the WRC found that the complainant was subjected to harassment but not direct discrimination.¹³² The other established that the dismissal of a gay man was not related to the ground.¹³³

Four ESA complaints on the Traveller community ground were upheld by the WRC in 2025, three of which concerned the same incident. The three interrelated cases involved the adverse treatment of a mother and her two children at a beauty salon.¹³⁴ The other concerned refusal of service in the hospitality sector.¹³⁵ There were two successful complaints on the race ground. One concerned the use of racist language and the ejection of a black complainant from hostel accommodation.¹³⁶ In the other, a Portuguese national was misinformed about his right to vote in local government elections at a polling station.¹³⁷

Irish law recognises that direct discrimination may arise from a failure to afford different treatment to persons who are differently situated.¹³⁸ To date, all cases appear to be on the race ground and concern migrant workers.¹³⁹ In essence, employers may be obliged to modify certain employment practices to accommodate the needs of individuals who

¹²⁸ A complaint concerning access to employment was not upheld, because the WRC accepted that no recruitment process was under way at the material time: Workplace Relations Commission, *Keenan v. Benzar Vizion Limited*, ADJ-00054590, 13 June 2025, <https://www.workplacerelations.ie/en/cases/2025/june/adj-00054590.html>.

¹²⁹ Workplace Relations Commission, *O'Connor v. Ballymaley Stores Limited*, ADJ-00052755, 19 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/adj-00052755.html> (see case summary in Section 12.2); *A General Labourer Mr. C v. A Contractor*, ADJ-00049084, 15 October 2025, <https://www.workplacerelations.ie/en/cases/2025/october/adj-00049084.html>.

¹³⁰ Workplace Relations Commission, *Nevin v. Cpf (Profiles) Ltd.*, ADJ-00054368, 25 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/adj-00054368.html> (summarised in Section 12.2).

¹³¹ See, for example, Workplace Relations Commission, *Sarwar Sahi v. Md Burns Co Ltd trading as More 4 Less*, ADJ-00053896, 11 February 2025, <https://www.workplacerelations.ie/en/cases/2025/february/adj-00053896.html>; the refusal to grant a Muslim complainant extended annual leave was not related to his religion; *Azuikokafor v. Accenture Limited*, ADJ-00052307, 11 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/adj-00052307.html>; a complaint on the race and religion grounds was submitted outside the six-month time limit.

¹³² Workplace Relations Commission, *Slattery v. Liberties Recycling Training & Development Company Limited by Guarantee*, ADJ-00049962, 31 March 2025, <https://www.workplacerelations.ie/en/cases/2025/march/adj-00049962.html> (see case summary in Section 12.2).

¹³³ Workplace Relations Commission, *Harold v. Westgrove Hotel*, ADJ-00054851, 2 May 2025, <https://www.workplacerelations.ie/en/cases/2025/may/adj-00054851.html>.

¹³⁴ Workplace Relations Commission, *A member of the Traveller Community, Ms. A v. A Beauty Salon*, ADJ-00049883, 24 July 2025, <https://www.workplacerelations.ie/en/cases/2025/july/adj-00049883.html>; *A Minor, Ms. K v. A Beauty Salon*, ADJ-00049882, 24 July 2025, <https://www.workplacerelations.ie/en/cases/2025/july/adj-00049882.html>; *A Minor, Ms. M v. A Beauty Salon*, ADJ-00049879, 24 July 2025, <https://www.workplacerelations.ie/en/cases/2025/july/adj-00049879.html>.

¹³⁵ Workplace Relations Commission, *McCarthy v. Johnny's Restaurant and Takeaway*, ADJ-00050951, 13 March 2025, <https://www.workplacerelations.ie/en/cases/2025/march/adj-00050951.html>.

¹³⁶ Workplace Relations Commission, *A Service User v. An Accommodation Service*, ADJ-00049099, 11 September 2025, <https://workplacerelations.ie/en/cases/2025/september/adj-00049099.html> (see case summary in Section 12.2).

¹³⁷ Workplace Relations Commission, *Garcia da Silva v. The Returning Officer for Galway County*, ADJ-00055907, 26 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj-00055907.html>.

¹³⁸ The primary decision on this matter is that of the Labour Court in *Campbell Catering v. Rasag* [2004] ELR 15, applying, Judgment of 14 February 1995, *Finanzamt Köln-Altstadt v. Roland Schumacker*, [Case C-279/93](https://eur-lex.europa.eu/eli/other/1995/31/20170117), ECLI:EU:C:1995:31. In a 2017 decision, the Labour Court addressed similar issues as giving rise to both direct and indirect discrimination: *Boxmore Plastics v. Zimareva*, EDA 1732, 30 November 2017, <https://www.workplacerelations.ie/en/Cases/2017/November/EDA1732.html>.

¹³⁹ Case law does not distinguish between EU nationals and third-country nationals.

encounter linguistic and cultural difficulties in the workplace. Employers have been obliged to provide translated contracts for foreign nationals¹⁴⁰ and, in the context of disciplinary proceedings, have 'a positive duty to ensure that all workers fully understand what is alleged against them, the gravity of the alleged misconduct and their right to mount a full defence, including the right to representation'.¹⁴¹ In one such decision the Director of the Equality Tribunal described the case law as establishing a 'duty of care to foreign employees'.¹⁴² This 'duty' stems from the prohibition of direct discrimination and is entirely separate from the legal provision on reasonable accommodation, which only applies to the disability ground (see Section 2.8). However, it does give rise to obligations, in a very limited number of cases, such as might be expected under a reasonable accommodation duty.

b) Justification for direct discrimination

The law does not permit justification of direct discrimination, save with respect to specific provisions on the age ground concerning retirement ages, fixed-term contracts and maximum recruitment ages (see Section 4.6).

2.5 Indirect discrimination (Article 2(2)(b))

a) Prohibition and definition of indirect discrimination

In Ireland, indirect discrimination is prohibited in national law. It is defined.

Indirect discrimination is defined as occurring where an apparently neutral provision would put a person belonging to a protected group at a particular disadvantage compared with other employees of their employer, or where an apparently neutral provision would put a person belonging to a protected group at a particular disadvantage compared with other persons.¹⁴³

As in previous years, very few EEA indirect discrimination complaints on the five grounds were determined in 2025.¹⁴⁴ A complaint on the race ground concerning recruitment criteria was upheld.¹⁴⁵ It was referred by a Lithuanian national and involved the imposition of a requirement that job applicants obtain a 'driver statement' from the National Driver Licence Service (see case summary in Section 12.2). A complaint on the same ground regarding the qualifications required for a finance manager role was unsuccessful. The WRC found that the impugned provision was objectively justified (summarised in Section 12.2).¹⁴⁶

¹⁴⁰ Equality Tribunal, *Five Complainants v. Hannon's Poultry Export Ltd.*, DEC-E2006-050, 18 October 2006, <https://www.workplacerelations.ie/en/Cases/2006/October/DEC-E2006-050-Full-Case-Report.html>; Workplace Relations Commission, *Fjodorovs v. Maxela Limited*, ADJ-00030095, 28 June 2023, <https://www.workplacerelations.ie/en/cases/2023/june/adj-00030095.html>.

¹⁴¹ Workplace Relations Commission, *Kostrzewski v. C&F Automotive Ltd t/a Iralco*, DEC-E2015-167, 30 December 2015, at Para. 4.4, <https://www.workplacerelations.ie/en/Cases/2015/December/DEC-E2015-167.html>. See also *A Fund Accounting Supervisor v. A Fund Management Company*, ADJ-00010660, 8 October 2018, <https://www.workplacerelations.ie/en/Cases/2018/October/ADJ-00010660.html>.

¹⁴² Equality Tribunal, *Mikoliuniene v. Halcyon Contract Cleaners Ltd.*, DEC-E2015-036, 26 June 2015, <https://www.workplacerelations.ie/en/cases/2015/june/dec-e2015-036.html>.

¹⁴³ Sections 31 and 22 EEA; Section 3(1)(c) ESA.

¹⁴⁴ In an equal pay case on the race ground, the WRC found that the complainant was not engaged in 'like work' with named comparators and it did not, therefore, consider whether job qualification standards were indirectly discriminatory: Workplace Relations Commission, *Dragomir v. B-Pods (Ireland) Limited*, ADJ-00048926, 6 January 2025, <https://www.workplacerelations.ie/en/cases/2025/january/adj-00048926.html>. In a disability-ground case, the WRC decided that, because the complainant did not apply for the position in question, she could not object to the inclusion of questions about health status and disability in the job application form: *Mehdi v. Irish Pensions and Finance*, ADJ-00057538, 11 December 2025, <https://www.workplacerelations.ie/en/cases/2025/december/adj-00057538.html>.

¹⁴⁵ Workplace Relations Commission, *Gvazdauskas v. Health Service Executive*, ADJ-00042605, 11 December 2025, <https://www.workplacerelations.ie/en/cases/2025/december/adj-00042605.html>.

¹⁴⁶ Workplace Relations Commission, *Oliveira v. St Vincent's University Hospital*, ADJ-00055087, 20 June 2025, <https://www.workplacerelations.ie/en/cases/2025/june/adj-00055087.html>.

b) Justification test for indirect discrimination

Indirect discrimination may be justified if the provision is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary. The justification test is compatible with the directives.

2.5.1 Statistical evidence

a) Legal framework

In Ireland, there is legislation regulating the collection of personal data.

Under Section 2(1) of the Data Protection Acts 1988-2018, 'special categories of personal data' means:

- '(a) personal data revealing—
 - (i) the racial or ethnic origin of the data subject,
 - (ii) the political opinions or the religious or philosophical beliefs of the data subject,or
- (iii) whether the data subject is a member of a trade union,
- (b) genetic data,
- (c) biometric data for the purposes of uniquely identifying an individual,
- (d) data concerning health, or
- (e) personal data concerning an individual's sex life or sexual orientation.'¹⁴⁷

The processing of such data is prohibited unless the data subject has given their explicit consent before processing begins or the processing is authorised by law, for example, to protect the interests of a data subject, to comply with employment legislation or for reasons of public interest. Personal data relating to criminal convictions and offences may only be processed under the control of an official authority. The Data Protection Commission was established in 2018 as the state's data protection authority for the purposes of the General Data Protection Regulation.¹⁴⁸

In Ireland, statistical evidence may be admitted under national law in order to establish indirect discrimination. Sections 19(4)(c) and 22(1A) EEA and Section 3(3A) ESA explicitly provide that such evidence is admissible for the purposes of determining whether indirect discrimination has occurred.

b) Practice

In Ireland, statistical evidence is used in practice in order to establish indirect discrimination. There is no reluctance to use statistical data as evidence in court.¹⁴⁹ Census data on the employment status of Travellers has been adduced in several recent successful ESA complaints, for example.¹⁵⁰ Statistics held by the Adoption Authority on the national

¹⁴⁷ Data Protection Act 1988, 13 July 1998; Ireland, Data Protection (Amendment) Act 2003, 10 April 2003. Data Protection Act 2018, 24 May 2018. Revised text available at: <http://revisedacts.lawreform.ie/eli/2018/act/7/revised/en/html>.

¹⁴⁸ Part 2, Data Protection Act 2018, 24 May 2018, <http://www.irishstatutebook.ie/eli/2018/act/7/enacted/en/html>.

¹⁴⁹ The Labour Court has noted that statistics 'are frequently used as an evidential tool in seeking to establish a prima facie case of indirect discrimination': *The Nationalist & Leinster Times Ltd v. Ashmore*, EDA133, 21 January 2013, <https://www.workplacerelations.ie/en/Cases/2013/January/EDA133.html>.

¹⁵⁰ See for example, Workplace Relations Commission, *Sheridan v. Labarre Ltd T/A The Savoy Hotel Limerick*, ADJ-00039380, 2 November 2023, <https://www.workplacerelations.ie/en/cases/2023/november/adj-00039380.html>; *Gammell v. Labarre Ltd T/A Hotel Savoy Limerick*, ADJ-00039182, 13 November 2023, <https://www.workplacerelations.ie/en/cases/2023/november/adj-00039182.html>.

origins of adopted children was used in a case on the race ground concerning school admission policies under ESA.¹⁵¹

In a 2002 decision, the Labour Court emphasised that its procedures are intended to facilitate parties whether legally represented or not, and that it would be alien to the ethos of the Court to oblige parties to undertake the inconvenience and expense involved in producing elaborate statistical evidence to prove matters which are obvious to the members of the Court by drawing on their own knowledge and experience.¹⁵² Adjudicators have consistently adopted this approach, relying on matters within their specialist expertise to ease the evidential burden associated with indirect discrimination complaints.¹⁵³ For instance, in a 2025 ESA case concerning a school's code of conduct, the adjudication officer found that males are less likely than females to wear two earrings.¹⁵⁴

The Labour Court emphasises that statistics are not decisive in themselves but are one factor that may be taken into account in determining whether a measure is indirectly discriminatory.¹⁵⁵

In its 2015 judgment in *Stokes v. Christian Brothers High School, Clonmel* the Supreme Court considered the interpretation of indirect discrimination under ESA for the first time.¹⁵⁶ In effect it held that statistical analysis is required to establish that a person belonging to a protected group is at a 'particular disadvantage' compared with others. The case was taken on the Traveller community ground, and the Court made no reference to EU law on the burden of proof. To date, the judgment has not impacted on decisions issued by the first instance forum for discrimination complaints.¹⁵⁷

The Equality Tribunal applied the *Stokes* judgment in a 2015 case, which challenged a criterion that allocated school places according to the date of application from those living in the school's catchment area.¹⁵⁸ The complainant, a British national who had migrated to Ireland in 2002, claimed that the provision was indirectly discriminatory on the race ground. He maintained that the school's policy was intrinsically liable to disadvantage the children of migrants, since they would move into the catchment area of the school later than indigenous children. The Director of the Equality Tribunal noted that the absence of statistical evidence was 'not necessarily fatal' to the complainant's case, which appears to be a less stringent evidential burden than that applied in *Stokes*.¹⁵⁹ Nevertheless, the

¹⁵¹ Workplace Relations Commission, *Ms A (on behalf of her daughter B) v. A Girls Secondary School*, DEC-S2015-001, 6 February 2015, <https://www.workplacerelations.ie/en/cases/2015/february/dec-s2015-001.html>.

¹⁵² Labour Court, *NBK Designs Ltd. v. Inoue* [2003] ELR 98, 25 November 2002, <https://www.workplacerelations.ie/en/Cases/2002/November/EED0212.html>. *Inoue* was applied in an ESA case for the first time in Equality Tribunal, *McDonagh v. Navan Hire Ltd.*, DEC-S2004-017, 6 February 2004, <https://www.workplacerelations.ie/en/cases/2004/february/dec-s2004-017-full-case-report.html>.

¹⁵³ See, for example, Equality Tribunal, *Mr A v. Department of Social Protection*, DEC-S2013-010, 11 October 2013, <https://www.workplacerelations.ie/en/Cases/2013/October/DEC-S2013-010.html>; Labour Court, *Tipperary County Council v. McAteer*, EDA 3/2015, 30 January 2015, <https://www.workplacerelations.ie/en/Cases/2015/January/EDA153.html>; Workplace Relations Commission, *An Employee v. An Employer*, DEC-E2016-080, May 2016, <https://www.workplacerelations.ie/en/Cases/2016/June/DEC-E2016-080.html>; *Complainant v. Respondent*, ADJ-00008685, 22 May 2018, <https://www.workplacerelations.ie/en/Cases/2018/May/ADJ-00008685.html>.

¹⁵⁴ Workplace Relations Commission, *Student (Minor) v. Secondary School*, ADJ-00054056, 13 May 2025, <https://www.workplacerelations.ie/en/cases/2025/may/adj-00054056.html>.

¹⁵⁵ Labour Court, *The Nationalist & Leinster Times Ltd v. Ashmore*, EDA133, 21 January 2013, <https://www.workplacerelations.ie/en/Cases/2013/January/EDA133.html>.

¹⁵⁶ Supreme Court, *Stokes v. Christian Brothers High School, Clonmel* [2015] IESC 13, 24 February 2015.

¹⁵⁷ In a 2021 disability-ground case the WRC noted the divergence between the approach adopted in *Stokes* and that of the CJEU. It considered that the CJEU jurisprudence should be applied in all complaints with an EU law dimension: Workplace Relations Commission, *Kearney v. Workplace Relations Commission*, ADJ-00031944, 17 December 2021, <https://www.workplacerelations.ie/en/cases/2021/december/adj-00031944.html>.

¹⁵⁸ Equality Tribunal, *A Father on behalf of his son v. A second level school*, DEC-S2015-008, 26 June 2015, <https://www.workplacerelations.ie/en/Cases/2015/June/DEC-S2015-008.html>.

¹⁵⁹ In a 2018 case, statistical analysis was referred to as a form of evidence that could be used to establish a prima facie case of indirect discrimination, but implicitly not required as such: Workplace Relations

Tribunal was 'unwilling, in the absence of hard evidence on the demographics of the catchment and movements into it in the relevant time period, to assume that non-Irish children are put at a particular disadvantage'. The decision illustrates the significant obstacles to be overcome by complainants in some indirect discrimination cases and the need for greater access to equality data.

The Equality (Miscellaneous Provisions) Act 2015 effected a slight change to the wording of the national indirect discrimination provisions that may militate against a shift towards 'requiring' statistical evidence.¹⁶⁰ Formerly, ESA, EEA and the Pensions Acts applied to a provision that 'puts' a person at a particular disadvantage. In line with the wording of the directives, the definitions now refer to provisions that 'would put' persons at a particular disadvantage compared with other persons.¹⁶¹ These amendments came into effect after the Supreme Court's judgment in *Stokes* and may impact how courts interpret the evidence required to establish a prima facie case in the future. This issue has yet to be considered in litigation.

2.6 Harassment (Article 2(3))

a) Prohibition and definition of harassment

In Ireland, harassment is prohibited in national law. It is defined.

Section 14(A) EEA prohibits harassment in employment on grounds of gender, age, race, religion, family status, disability, civil status, sexual orientation and membership of the Traveller community. Section 11 ESA prohibits harassment on the same grounds in access to goods and services. Under both statutes, harassment is defined as any unwanted conduct related to any discriminatory ground which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.¹⁶² This conduct can include acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material.

Commission, *O'Donoghue v. The Minister for Social Protection*, DEC-S2018-014, 5 June 2018, <https://www.workplacerelations.ie/en/cases/2018/june/dec-s2018-014.html>.

¹⁶⁰ Ireland, Equality (Miscellaneous Provisions) Act 2015, 10 December 2015, <http://www.irishstatutebook.ie/eli/2015/act/43/enacted/en/print.html>. The 2015 Act effected several changes to Irish anti-discrimination law, many of which sought to align national law with the requirements of the EU anti-discrimination directives. It amended EEA by introducing an objective justification requirement for both mandatory retirement ages and offers of fixed-term contracts to persons over the compulsory retirement age (see 4.6). The religious ethos exception provided for under Section 37 EEA was altered substantially (see 4.2). Individuals may now lodge EEA complaints about discriminatory advertising; formerly, such cases could be taken solely by IHREC. The Commission retains exclusive jurisdiction with respect to discriminatory advertising under ESA – see Workplace Relations Commission, *Alamazani v. Daft Media Limited*, ADJ-00006704, 23 February 2018, <https://www.workplacerelations.ie/en/Cases/2018/February/ADJ-00006704.html>. Further, a new housing assistance ground was included under ESA, enabling persons in receipt of various social protection payments to challenge discrimination in the context of accommodation provision.

¹⁶¹ Section 3(1)(c) ESA; Sections 19(4)(a) and 22(1)(a) EEA; Section 68 Pensions Act 1990-2018.

¹⁶² Section 14A(7)(a) EEA, Section 11(5)(a) ESA.

Various forms of communication have been the subject of successful harassment complaints under ESA and EEA, including 'spoken words',¹⁶³ text messages,¹⁶⁴ a drawing¹⁶⁵ and graffiti.¹⁶⁶ A complainant does not need to demonstrate that they fall under one of the discriminatory grounds, since it is sufficient that the impugned conduct is 'related to' a ground.¹⁶⁷ Thus, in *Kane v. Eirjet Ltd*,¹⁶⁸ a non-disabled woman and her disabled son were both subjected to harassment when airline staff dealt with them in an offensive manner. In a 2020 case, a landlord who made racist comments about the type of tenants he sought harassed the complainant even though the remarks did not relate to her.¹⁶⁹ A successful EEA complaint on the race ground stemmed from a workplace conversation about immigration and refugees.¹⁷⁰ The WRC found that remarks made by the complainant's supervisor constituted harassment even though they were not directed at him.

Under EEA, there were several successful complaints of harassment in 2025. A case on the sexual orientation ground entailed homophobic verbal abuse and physical assault (see case summary in Section 12.2).¹⁷¹ Two complaints on the disability ground were upheld. In one of those cases the unwanted conduct was communication among staff about replacing the complainant, who had stage four cancer at the time.¹⁷² The other complaint centred on a manager's remark about the complainant's disability, which was 'sarcastic or dismissive' in tone.¹⁷³ The three successful harassment complaints on the race ground involved single incidents. Racist verbal abuse by colleagues was directed at a Romanian national¹⁷⁴ and a black French national,¹⁷⁵ respectively, while a manager, in an interaction with a Polish worker, described Polish people as 'fighters' and said that Irish people are 'kinder and nicer'.¹⁷⁶

¹⁶³ See, for example, Workplace Relations Commission, *Muresan v. G&C Power Limited t/a Dominos Waterford*, DEC-E2017-040, 31 May 2017, <https://www.workplacerelations.ie/en/Cases/2017/May/DEC-E2017-040.html>; Workplace Relations Commission, *Nkikita v. Fleming*, ADJ-00020830, 4 December 2019, <https://www.workplacerelations.ie/en/cases/2019/december/adj-00020830.html>.

¹⁶⁴ See, for example, Equality Tribunal, *Merriman v. O'Flaherty's Ltd. t/a Reads Print Design and Photocopying Bureau*, DEC-S2011-049, 8 November 2011, <https://www.workplacerelations.ie/en/Cases/2011/November/DEC-S2011-049-Full-Case-Report.html>. The Equality Tribunal found that the use of the letters 'xxx' in text messages sent in the context of a commercial dispute was intended to 'undermine the complainant (and his masculinity) on the basis of his sexual orientation' (Para. 5.6).

¹⁶⁵ Workplace Relations Commission, *Foley v. Atercin Liffey Unlimited T/A Starbucks Tallaght*, ADJ-00028487, 5 January 2021, <https://www.workplacerelations.ie/en/cases/2021/january/adj-00028487.html>.

¹⁶⁶ See, for example, Workplace Relations Commission, *Magat v. Component Distributors (CD Ireland) Limited*, ADJ-00016752, 30 April 2019, <https://www.workplacerelations.ie/en/cases/2019/may/adj-00016752.html>.

¹⁶⁷ Irish law is in line with the interpretation of harassment adopted by the CJEU in Judgment of 17 July 2018, *Coleman v. Attridge Law and Steve Law*, [Case C-303/06](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CJ086), ECLI:EU:C:2018:415, Para. 58.

¹⁶⁸ Equality Tribunal, DEC-S2008-026, 18 April 2008, <https://www.workplacerelations.ie/en/Cases/2008/April/DEC-S2008-026-Full-Case-Report.html>.

¹⁶⁹ Workplace Relations Commission, *Tenant v. Landlord*, ADJ-00021417, 7 July 2020, <https://www.workplacerelations.ie/en/cases/2020/july/adj-00021417.html>.

¹⁷⁰ Workplace Relations Commission, *An Operator v. A Manufacturer of Medical Devices*, ADJ-00047617, 5 June 2024, <https://www.workplacerelations.ie/en/cases/2024/june/adj-00047617.html>.

¹⁷¹ Workplace Relations Commission, *Slattery v. Liberties Recycling Training & Development Company Limited By Guarantee*, ADJ-00049962, 31 March 2025, <https://www.workplacerelations.ie/en/cases/2025/march/adj-00049962.html>.

¹⁷² Workplace Relations Commission, *Salib v. Wingilt Limited t/a Flatley Engineering*, ADJ-00056661, 10 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj-00056661.html>.

¹⁷³ Workplace Relations Commission, *A Sales Assistant v. A Retail Company*, ADJ-00055729, 2 December 2025, <https://www.workplacerelations.ie/en/cases/2025/december/adj-00055729.html> (see case summary in Section 12.2).

¹⁷⁴ Workplace Relations Commission, *Daradics v. James White & Company Unlimited Company t/a The King Thomond Hotel*, ADJ-00053723, 11 April 2025, <https://www.workplacerelations.ie/en/cases/2025/april/adj-00053723.html> (see case summary in Section 12.2).

¹⁷⁵ Workplace Relations Commission, *A Baker v. A Food and Drinks Company*, ADJ-00026226, 26 May 2025, <https://www.workplacerelations.ie/en/cases/2025/may/adj-00026226.html>.

¹⁷⁶ Workplace Relations Commission, *Szuba v. Esker Property Holdings Limited t/a Hazel Hall Nursing Home*, ADJ-00051552, 9 October 2025, <https://www.workplacerelations.ie/en/cases/2025/october/adj-00051552.html>.

In Ireland, harassment explicitly constitutes a form of discrimination in employment (Section 14A EEA) but does not explicitly constitute a form of discrimination in access to goods and services (Section 11 ESA).

b) Scope of liability for harassment

In Ireland, where harassment is perpetrated by an employee, the employer is liable.

Section 14A EEA provides:

‘14A(1) For the purposes of this Act, where
(a) an employee (in this section referred to as “the victim”) is harassed or sexually harassed either at a place where the employee is employed (in this section referred to as “the workplace”) or otherwise in the course of his or her employment by a person who is
(i) employed at that place or by the same employer, (ii) the victim’s employer, or
(iii) a client, customer, or other business contact of the victim’s employer and the circumstances of the harassment are such that the employer ought reasonably to have taken steps to prevent it, or
(b) without prejudice to the generality of paragraph (a)
(i) such harassment has occurred, and (ii) either
(I) the victim is treated differently in the workplace or otherwise in the course of his or her employment by reason of rejecting or accepting the harassment, or
(II) it could reasonably be anticipated that he or she would be so treated,
the harassment or sexual harassment constitutes discrimination by the victim’s employer in relation to the victim’s conditions of employment.’

In a 2016 decision, the Labour Court reaffirmed that the provision applies to conduct that occurs outside the workplace.¹⁷⁷ Moreover, there is no requirement to show that the *perpetrator* was acting in the course, or within the scope, of their employment. The proper test is whether the victim experienced harassment in the course of their employment. The conduct at issue included an abusive message posted by an employee on social media, which was directed at the complainant in his capacity as a worker representative.

Where conduct amounting to harassment has occurred, an employer may avail of the statutory defence set out under Section 14A(2). The defence applies where the employer can show that it took ‘reasonably practicable’ steps to prevent harassment and to reverse its effects. A code of practice, which was updated in 2022, provides guidance on the measures employers should take to avoid liability.¹⁷⁸ Employers must demonstrate, at a minimum, that an anti-harassment policy was in place before the harassment occurred and that the policy was effectively communicated to all employees. Additionally, managers should receive appropriate training.¹⁷⁹ According to case law, the obligation to reverse the effects of harassment ‘is understood to comprehend initiatives such as the provision of counselling to an employee who has experienced harassment on any of the nine grounds, a referral of the employee to an Employee Assistance Programme and the provision of refresher training on diversity and equality to all employees and managers, as appropriate’.¹⁸⁰

¹⁷⁷ Labour Court, *Dublin Bus v. McCamley*, EDA 164, 18 February 2016, <https://www.workplacerelations.ie/en/Cases/2016/February/EDA164.html>; see further: Ireland, [S.I. No. 106/2022](#) - Irish Human Rights and Equality Commission Act 2014 (Code of Practice on Sexual Harassment and Harassment at Work) Order 2022, Para. 48.

¹⁷⁸ Ireland, [S.I. No. 106/2022](#) - Irish Human Rights and Equality Commission Act 2014 (Code of Practice on Sexual Harassment and Harassment at Work) Order 2022.

¹⁷⁹ See further: Labour Court, *A Store v. A Worker*, EDA 163, 28 January 2016, <https://www.workplacerelations.ie/en/Cases/2016/January/EDA163.html>.

¹⁸⁰ Labour Court, *CPL Solutions Limited T/A Flexsource v. Kings Oluebube*, EDA2134, 4 October 2021, <https://www.workplacerelations.ie/en/cases/2021/october/eda2134.html>; Labour Court, *The Agricultural Trust v. Brien*, EDA2213, 12 July 2022, <https://www.workplacerelations.ie/en/cases/2022/july/eda2213.html>.

Liability for the conduct of an employer's client was established in the 2017 case of *Rusu v. Senture Security Ltd.*¹⁸¹ The complainant, a Romanian national, was employed as a security guard and was assigned work at a hotel that had contracted with the respondent to provide security services. The owner of the hotel approached the complainant one evening and said, 'All Romanians are thieves and liars.' When the complainant reported this incident, Senture Security instructed him to desist from work at the premises and advised him that it would find another suitable work location. However, it subsequently failed to redeploy the complainant. The employer could not rely on the defence under Section 14A(2) since it failed to take any steps to prevent or remedy the harassment.

Service providers, such as landlords, schools, and hospitals, are liable for harassment that occurs in the provision of the service concerned. Under the vicarious liability principle set out under Section 42 ESA, service providers are legally responsible for the discriminatory actions of their employees and agents. Liability was imposed on the respondent landlord for the conduct of his son in a 2019 race-ground harassment case.¹⁸² The son lived in the adjoining house and was the respondent's agent because he acted as a contact point between the landlord and the tenant whom he subjected to racist verbal abuse. Section 11(2) ESA further obliges service providers also to protect people from harassment or sexual harassment committed by a third party, subject to a defence. This would include liability for harassment perpetrated by other tenants, clients or customers, for example. A statutory defence would be available if the service provider took such steps as were reasonably practicable to prevent harassment (Section 11(3)).

Equality legislation does not provide for liability on the part of the individual harasser. There is no specific liability for trade unions or professional associations other than as employers or service providers.¹⁸³

2.7 Instructions to discriminate (Article 2(4))

a) Prohibition of instructions to discriminate

In Ireland, instructions to discriminate are prohibited in national law. 'Instructions' are not defined. Since there is no case law on the meaning of an 'instruction', it is not clear whether instructions to discriminate include explicit instructions and/or preferences or suggestions with a discriminatory impact and/or encouragement or pressure.

Section 2(1) EEA specifies that 'discrimination includes the issue of an instruction to discriminate and, in Part V and VI, includes prohibited conduct within the meaning of the Equal Status Acts 2000.' Part V and VI EEA set out the functions and powers of IHREC. This section thus ensures that IHREC can take or support proceedings involving an instruction to discriminate.

Section 14 EEA provides that a person who 'procures or attempts to procure' another person to engage in discrimination or victimisation shall be guilty of an offence. This criminal offence, which would cover at least some forms of instruction, is actionable in the District Court. Proceedings may be instituted by the Workplace Relations Commission or by IHREC.¹⁸⁴

¹⁸¹ Workplace Relations Commission, DEC-E2017-056, 24 July 2017, <https://www.workplacerelations.ie/en/Cases/2017/July/DEC-E2017-056.html>.

¹⁸² Workplace Relations Commission, *A Tenant v. A Landlord*, ADJ-00013893, 5 March 2019, <https://www.workplacerelations.ie/en/Cases/2019/March/ADJ-00013893.html>.

¹⁸³ Trade unions are not subject to the reasonable accommodation duty under EEA in relation to their members: see Workplace Relations Commission, *McNamee v. Irish Municipal Public and Civil Trade Union Impact Trade Union / FORSA Trade Union*, ADJ-00012244, 24 April 2019, <https://www.workplacerelations.ie/en/cases/2019/april/adj-00012244.html>. Such a complaint should be lodged instead under ESA.

¹⁸⁴ Section 100 EEA. The Supreme Court concluded that the provision in the Employment Equality Bill 1996 was not repugnant to the Constitution. The Court noted that it would have to be proved in the ordinary way that

ESA does not explicitly prohibit the issuing of instructions to discriminate, although it might be argued that the prohibition of the procurement or attempted procurement of 'prohibited conduct' under Section 13 includes the issuing of instructions. Section 2(1) provides that 'prohibited conduct' means discrimination against, or sexual harassment or harassment of, or permitting the sexual harassment or harassment of, a person. Section 13 is not confined to employees of the procurer and so it covers third parties, including agents. Procurement is a criminal offence and proceedings may only be instigated by the Workplace Relations Commission or by IHREC. It appears that no such proceedings have been initiated.

In Ireland, instructions explicitly constitute a form of discrimination under Section 2(1) EEA.

In Ireland, instructions to discriminate do not require a hierarchical relationship between the instructor and instructed person.

b) Scope of liability for instructions to discriminate

In Ireland, the instructor is liable.

Equality legislation does not explicitly provide for liability by the individual discriminator or instructed person, apart from Section 10 EEA and Section 12 ESA, which enable liability to be imposed on a person who displays or publishes discriminatory advertising. The generic provisions on vicarious liability under EEA and ESA apply to instructions to discriminate and render employers and service providers liable for instructions issued by employees and agents (subject to a defence).

Employers and service providers (e.g., landlords, schools and hospitals) are liable for discrimination, including by instruction, perpetrated by employees. The legislation specifies that anything done by a person in the course of their employment shall be treated as done also by that person's employer, whether or not it was done with the employer's knowledge or approval.¹⁸⁵ Consequently, an employer could be held liable for an instruction to discriminate issued by a manager, for example. An employer can evade liability by proving that it took such steps as were reasonably practicable to prevent the employee (a) from doing that act or (b) from doing in the course of his or her employment acts of that description.¹⁸⁶

The provisions on vicarious liability for agents make it clear that persons cannot discriminate through an intermediary. Both ESA and EEA specify that: 'Anything done by a person as agent for another person, with the authority (whether express or implied and whether precedent or subsequent) of that other person shall, in any proceedings brought under this Act, be treated for the purposes of this Act as done also by that other person.'¹⁸⁷ Where a principal directs or instructs an agent to engage in prohibited conduct, both parties can potentially be found liable. However, since the provisions that outlaw discrimination under EEA are addressed to employers, the respondent (and hence liable person) will generally be the employer.¹⁸⁸ In one case, the Labour Court held that, where a prospective employer is instructed by another not to employ a particular person, and that instruction is tainted with discrimination, liability cannot be avoided by pleading that the instruction was accepted without question. The Court found that, under the terms of Section 8 of the Act, which provides that an employer shall not discriminate against an employee or

the person in question had an intention to commit the offence: *Article 26 of the Constitution and the Employment Equality Bill 1996*, Re [1997] 2 IR 321 at p.369.

¹⁸⁵ Section 15(1) EEA, Section 42(1) ESA.

¹⁸⁶ Section 15(3) EEA, Section 42(3) ESA.

¹⁸⁷ Section 15(2) EEA, Section 42(2) ESA.

¹⁸⁸ The WRC accepted that an equal pay case could proceed against the Department of Education and Skills even though it was not the complainant teachers' employer, since the Department was responsible for setting teachers' remuneration: *Horgan and Keegan v. Department of Education and Skills and others*, DEC-E2016-041, 4 March 2016, <https://www.workplacerelations.ie/en/Cases/2016/March/DEC-E2016-041.html>.

prospective employee and that a provider of agency work shall not discriminate against an agency worker, both the agency and the instructing company could potentially be held liable as 'concurrent wrongdoers'.¹⁸⁹

Under ESA, service providers have been found liable for implementing discriminatory policies set by other entities such as insurance underwriters, tour operators and landlords. Some of the impugned measures have taken the form of instructions to discriminate, such as a landlord's explicit direction to a letting agent not to accept tenants in receipt of rent allowance¹⁹⁰ and an insurance company's instruction not to provide persons with epilepsy access to certain cosmetic treatments.¹⁹¹ Liability may be imposed on a person for the offences of procuring or attempting to procure discrimination (Section 14 EEA; Section 13 ESA). In the absence of case law, the parameters of these provisions are unclear.

2.8 Reasonable accommodation duties (Article 2(2)(b)(ii) and Article 5 Directive 2000/78)

- a) Implementation of the duty to provide reasonable accommodation for persons with disabilities in the area of employment

In Ireland, the duty on employers to provide reasonable accommodation for persons with disabilities is included in the law and it is defined.

Section 16(3)(a) EEA provides that 'a person who has a disability is fully competent to undertake, and fully capable of undertaking, any duties if the person would be so fully competent and capable on reasonable accommodation (in this subsection referred to as 'appropriate measures') being provided by the person's employer.'¹⁹² Section 16(3)(b) specifies:

'The employer shall take appropriate measures, where needed in a particular case, to enable a person who has a disability

- (i) to have access to employment,
- (ii) to participate or advance in employment, or
- (iii) to undergo training,

unless the measures would impose a disproportionate burden on the employer.'

'Appropriate measures' are defined under Section 16(4):

'(a) ... effective and practical measures, where needed in a particular case, to adapt the employer's place of business to the disability concerned,

- (b) without prejudice to the generality of paragraph (a), includes the adaptation of premises and equipment, patterns of working time, distribution of tasks or the provision of training or integration resources, but
- (c) does not include any treatment, facility or thing that the person might ordinarily or reasonably provide for himself or herself.'

Section 16(3)(c) provides that, in determining whether the measures would impose a disproportionate burden, account shall be taken of the financial and other costs entailed,

¹⁸⁹ Labour Court, *A Worker v. Two Respondents*, EDA1129, 22 November 2011, <https://www.workplacerelations.ie/en/Cases/2011/November/EDA1129.html>.

¹⁹⁰ Workplace Relations Commission, *O'Gara v. Keenan Property Management*, ADJ-00033813, 5 April 2023, <https://www.workplacerelations.ie/en/cases/2023/april/adj-00033813.html>.

¹⁹¹ Equality Tribunal, *Forde v. The Body Clinic*, DEC-S2007-085, 28 November 2007, <https://www.workplacerelations.ie/en/Cases/2007/November/DEC-S2007-085-Full-Case-Report.html>.

¹⁹² Case law has established that the obligation on employers to provide reasonable accommodation applies to potential employees: Equality Tribunal, *Harrington v. East Coast Area Health Board*, DEC-E2002-001, 23 January 2002, <https://www.workplacerelations.ie/en/cases/2002/january/dec-e2002-0011.html>; Workplace Relations Commission, *Farnan v. Co. Wexford Community Workshop (Enniscorthy) Clg*, ADJ-00039184, 29 June 2023, <https://www.workplacerelations.ie/en/cases/2023/june/adj-00039184.html>.

the scale and financial resources of the employer's business and the possibility of obtaining public funding or other assistance.

Section 16 does not refer to the term 'essential functions' used in Recital 17 of the preamble to the Employment Equality Directive. Reference is made instead to the 'duties' attached to a position.

The duty is similar, in law and in practice, for private sector workers and for civil servants in the general public sector.

b) Case law

Decisions emphasise that the duty to provide reasonable accommodation is a proactive one, which requires employers to undertake a two-stage inquiry.¹⁹³ They must carry out a full assessment of the employee's needs and then consider the measures necessary to accommodate them, which may include adapting working patterns¹⁹⁴ or relieving an employee of certain tasks.¹⁹⁵

In a landmark 2019 judgment, the Supreme Court noted that the legislative provision does not refer to the 'essential' functions or duties of a post.¹⁹⁶ Consequently, employers are obliged to consider the redistribution of any duties or tasks, even where they pertain to the essential functions of a job. However, the employer's obligations are not unlimited. The key test is whether any redistribution of duties or tasks would impose a 'disproportionate burden'. The Supreme Court noted that, where a redistribution of duties or tasks would effectively create a different job entirely, this would almost inevitably impose a disproportionate burden on an employer. The Court also found that it is not mandatory to consult with the employee concerned, but it would be prudent for employers to do so.¹⁹⁷

As in previous years, dozens of WRC decisions were issued on the reasonable accommodation provision in 2025. Several were upheld because employers had either failed to adequately assess the worker's needs¹⁹⁸ or had omitted to adopt appropriate measures enabling employees to remain in¹⁹⁹ or return to employment.²⁰⁰

¹⁹³ See, for example, Labour Court, *Dunnes Stores v. Doyle Guidera*, EDA1838, 30 July 2018, <https://www.workplacerelations.ie/en/Cases/2018/July/EDA1838.html>; Workplace Relations Commission, *A Solicitor v. A Legal Service*, ADJ-00011821, 7 September 2018, <https://www.workplacerelations.ie/en/cases/2018/september/adj-00011821.html>.

¹⁹⁴ Workplace Relations Commission, *A Deli Assistant v. A Retail Outlet*, ADJ-00056872, 3 September 2025, <https://www.workplacerelations.ie/en/cases/2025/september/adj-00056872.html>.

¹⁹⁵ See, for example, Workplace Relations Commission, *An Employee v. A Multi-National Retailer*, DEC-E2016-021, 28 January 2016, <https://www.workplacerelations.ie/en/Cases/2016/January/DEC-E2016-021.html>; Workplace Relations Commission, *Ms A v. A Retail Business*, DEC-E2017-078, 5 October 2017, <https://www.workplacerelations.ie/en/Cases/2017/October/DEC-E2017-078.html>. This approach was affirmed by the Supreme Court in *Nano Nagle School v. Daly* [2019] IESC 63, 31 July 2019.

¹⁹⁶ *Nano Nagle School v. Daly* [2019] IESC 63, 31 July 2019.

¹⁹⁷ This aspect of the Supreme Court's judgment was referenced in a 2022 WRC decision, which found that it was not incumbent on an employer to encourage an employee who has been certified unfit to work to seek reasonable accommodation: *Moloney v. Eurostyle Ltd*, ADJ-00028520, 31 January 2022, <https://www.workplacerelations.ie/en/cases/2022/january/adj-00028520.html>.

¹⁹⁸ See, for example, Workplace Relations Commission, *Legal Secretary v. Firm of Solicitors*, ADJ-00037691, 13 March 2025, <https://www.workplacerelations.ie/en/cases/2025/march/adj-00037691.html>; *Yekinni v. Nua Healthcare Services*, ADJ-00052105, 13 October 2025, <https://www.workplacerelations.ie/en/cases/2025/october/adj-00052105.html>.

¹⁹⁹ See, for example, Workplace Relations Commission, *Tracy v. Smurfit Kappa Ireland Ltd t/a the Educational Company Of Ireland*, ADJ-00046740, 6 January 2025, <https://www.workplacerelations.ie/en/cases/2025/january/adj-00046740.html> (summarised in Section 12.2); *Barton v. MGM Boats (Cork) Limited*, ADJ-00049885, 18 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/adj-00049885.html>.

²⁰⁰ See, for example, Workplace Relations Commission, *Rice v. Tesco Ireland Limited*, ADJ-00044777, 16 January 2025, <https://www.workplacerelations.ie/en/cases/2025/january/adj-00044777.html>; *Checker v. Transport Company*, ADJ-00040743, 24 April 2025, <https://www.workplacerelations.ie/en/cases/2025/april/adj-00040743.html>; *Gahan v. Pobal*, ADJ-00044199, 19 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj->

Adjudicators routinely have regard to the scale and financial resources of employers' businesses in assessing the extent of the duty. In one case, for example, the respondent estimated the cost of providing a disabled toilet in the store where the complainant worked at EUR 22 000. The Labour Court found that, since the respondent was a large multinational company, expenditure of EUR 22 000 'could not by any standard be regarded as imposing a disproportionate burden in vindicating the complainant's right to work on the same basis as others'.²⁰¹ In *Costello v. Allied Irish Bank plc*, the WRC found that the respondent had failed to provide reasonable accommodation because it did not adequately consider providing an employee with reduced working hours for an extended period.²⁰² Such a measure would not have imposed a disproportionate burden on the respondent, being a large retail bank, and given the nature of the complainant's role as an advisor in a call centre. In a 2020 case, the Labour Court found that an employer is not obliged to maintain an employee's previous level of earnings where they are working reduced hours because of a reasonable accommodation measure.²⁰³

c) Definition of disability and non-discrimination protection

The definition of disability for the purposes of claiming reasonable accommodation in both the private and the public sector is the same as the definition used for claiming protection from discrimination in general.

d) Failure to meet the duty of reasonable accommodation for persons with disabilities

In Ireland, failure to meet the duty of reasonable accommodation in employment for persons with disabilities is recognised as a form of discrimination in both the private and the general public sector. Although Irish legislation does not define denial of reasonable accommodation as discrimination, case law has established that it is a free-standing form of discrimination. This interpretive approach has been adopted in a line of cases dating to 2006²⁰⁴ and is aimed at securing compliance with Directive 2000/78/EC.²⁰⁵

If an employee would be fully competent and capable of undertaking the duties attached to a position if reasonable accommodation was provided, an employer who fails to provide such reasonable accommodation discriminates.²⁰⁶

Failure to provide reasonable accommodation is a *sui generis* form of discrimination. The full range of sanctions for discrimination is applicable, including awards of compensation.

[00044199.html](https://www.workplacerelations.ie/en/cases/2025/november/adj-00043513.html); *Dempsey v. Irish Prison Service*, ADJ-00043513, 24 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj-00043513.html> (summarised in Section 12.2).

²⁰¹ Labour Court, *A Multinational Employer v. A Worker*, EDA1435, 10 November 2014, <https://www.workplacerelations.ie/en/Cases/2014/November/EDA1435.html>.

²⁰² Workplace Relations Commission, *Costello v. Allied Irish Bank plc*, DEC-E2019-007, 13 September 2019, <https://www.workplacerelations.ie/en/cases/2019/september/dec-e2019-007.html>.

²⁰³ Labour Court, *Health Service Executive v. Hannigan*, EDA2013, 14 September 2020, <https://www.workplacerelations.ie/en/cases/2020/september/eda2013.html>. Applied in Workplace Relations Commission, *O'Rourke v. De Puy Synthes Ireland Limited*, ADJ-00038251, 24 February 2023, <https://www.workplacerelations.ie/en/cases/2023/february/adj-00038251.html>. See also: Labour Court, *DHL Supply Chain (Ireland) Limited v. McAndrew*, EDA2341, 14 November 2023, <https://www.workplacerelations.ie/en/cases/2023/december/eda2341.html>.

²⁰⁴ Equality Tribunal, *O'Sullivan v. Siemens Business Services Ltd*, DEC-E2006-058, 22 November 2006, <https://www.workplacerelations.ie/en/cases/2006/november/dec-e2006-058-full-case-report.html>; *A Complainant v. An Employer*, DEC-E2008-068, 30 December 2008, <https://www.workplacerelations.ie/en/cases/2008/december/dec-e2008-068-full-case-report.html>.

²⁰⁵ Bolger, M., Bruton, C., and Kimber, C. (2012), *Employment equality law*, Dublin, Thomson Reuters, pp. 366-367. Prior to its amendment under the Equality Act 2004, the duty did not give rise to a free-standing cause of action. It functioned rather to negate reliance on the defence provided for under Section 16(1): Labour Court, *An Employer v. A Worker (Mr O) Number 1*, EDA0419, 5 January 2005, <https://www.workplacerelations.ie/en/cases/2005/january/eda0419.html>.

²⁰⁶ Section 16(1) and (3) EEA.

The burden of proof is reversed.²⁰⁷

As regards justification, Section 16(1) EEA offers employers a defence in stating that nothing in the Act requires any person to recruit or promote an individual, retain an individual or provide training or experience if the individual will not undertake the required duties or will not accept the conditions under which those duties are required to be performed, or is not (or no longer) fully competent and available to undertake, and fully capable of undertaking the duties attached to that position.²⁰⁸ However, Section 16(3)(a) tempers the defence by clarifying that a person who has a disability is fully competent to undertake, and fully capable of undertaking, any duties if the person would be so fully competent and capable upon reasonable accommodation being provided by the person's employer.

In *Nano Nagle* the Supreme Court stated that 'an employer cannot be under a duty entirely to redesignate or create a different job to facilitate an employee'.²⁰⁹ This judgment should be read in light of the CJEU's subsequent finding in *HR Rail* that redeployment to another role could constitute an appropriate measure (as confirmed in *Ca Na Negreta*).²¹⁰ However, Irish case law is inconsistent on this point. *HR Rail* has been applied in several relevant WRC decisions²¹¹ but not in some others.²¹² The Labour Court, which hears de novo appeals from WRC decisions under EEA, has neglected to cite *HR Rail* in the two relevant decisions it has issued since that judgment.²¹³ While the CJEU's findings may not have impacted the conclusions reached on the facts, the Labour Court has simply reiterated the Irish Supreme Court's finding that there is no obligation to reassign a worker to a different role, without referring to the broader approach set out in *HR Rail*.

It is an occupational requirement that those employed in the police, prison service or any emergency service are fully competent, available and capable of undertaking the range of functions associated with such positions so that the operational capacity of the services concerned may be preserved.²¹⁴ This provision reflects the wording of Recital 18 to Directive 2000/78/EC and was considered by the High Court in a 2020 case concerning a prison officer.²¹⁵ The Court overturned a Labour Court finding that the occupational requirement operates as a complete defence to a claim of discrimination under

²⁰⁷ Equality Tribunal, DEC-E2007-03, *O'Keeffe v. Walsh t/a By Pass Stores*, <https://www.workplacerelations.ie/en/Cases/2007/June/DEC-E2007-033-Full-Case-Report.html>.

²⁰⁸ With respect to 2025 decisions, for example, Workplace Relations Commission, *O'Meara v. Health Service Executive*, ADJ-00049978, 13 May 2025, <https://www.workplacerelations.ie/en/cases/2025/may/adj-00049978.html>; *General Operative v. Medical Devices Manufacturer*, ADJ-00040345, 10 February 2025, <https://www.workplacerelations.ie/en/cases/2025/february/adj-00040345.html>; *O'Doherty v. Gleeson Concrete*, ADJ-00053346, 3 June 2025, <https://www.workplacerelations.ie/en/cases/2025/june/adj-00053346.html> (summarised in Section 12.2).

²⁰⁹ *Nano Nagle School v. Daly* [2019] IESC 63, 31 July 2019, Para. 89.

²¹⁰ Judgment of 10 February 2022, *XXXX v. HR Rail SA*, [C-485/20](https://eur-lex.europa.eu/eli/cej/2022/85), ECLI:EU:C:2022:85; Judgment of 18 January 2024, *J.M.A.R. v. Ca Na Negreta SA*, [C-631/22](https://eur-lex.europa.eu/eli/cej/2024/53), ECLI:EU:C:2024:53.

²¹¹ For example, Workplace Relations Commission, *O'Meara v. Health Service Executive*, ADJ-00049978, 13 May 2025, <https://www.workplacerelations.ie/en/cases/2025/may/adj-00049978.html>; *O'Doherty v. Gleeson Concrete*, ADJ-00053346, 3 June 2025, <https://www.workplacerelations.ie/en/cases/2025/june/adj-00053346.html> (summarised in Section 12.2); *Dempsey v. Irish Prison Service*, ADJ-00043513, 24 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj-00043513.html> (summarised in Section 12.2).

²¹² For example, Workplace Relations Commission, *Reynolds v. TLI Group Limited*, ADJ-00053220, 4 March 2025, <https://www.workplacerelations.ie/en/cases/2025/march/adj-00053220.html>; *Sinclair v. Musgraves Limited*, ADJ-00047002, 28 May 2025, <https://www.workplacerelations.ie/en/cases/2025/may/adj-00047002.html>; *Lynch v. Synergy Security Solutions Limited*, ADJ-00051388, 3 September 2025, <https://www.workplacerelations.ie/en/cases/2025/september/adj-00051388.html>.

²¹³ Labour Court, *Health Services Executive v. O'Shea*, EDA2227, 3 November 2022, <https://www.workplacerelations.ie/en/cases/2022/november/eda2227.html>; *Irish Prison Service v. O'Connor*, EDA2356, 3 January 2024, <https://www.workplacerelations.ie/en/cases/2024/january/eda2356.html>.

²¹⁴ Section 37(3) EEA.

²¹⁵ High Court, *Cunningham v. Irish Prison Service* [2020] IEHC 282, 9 June 2020.

Section 16.²¹⁶ Rather, the occupational requirement should be considered in conjunction with the overarching obligation to provide reasonable accommodation.

- e) Duties to provide reasonable accommodation in areas other than employment for persons with disabilities

In Ireland, there is a legal duty to provide reasonable accommodation for persons with disabilities outside the area of employment.

Section 4 ESA provides:

‘(1) For the purposes of this Act discrimination includes a refusal or failure by the provider of a service to do all that is reasonable to accommodate the needs of a person with a disability by providing special treatment or facilities, if without such special treatment or facilities it would be impossible or unduly difficult for the person to avail himself or herself of the service.

(2) A refusal or failure to provide the special treatment or facilities to which subsection (1) refers shall not be deemed reasonable unless such provision would give rise to a cost, other than a nominal cost, to the provider of the service in question.’

The ‘special treatment or facilities’ which the goods or service provider must provide are not defined. Owing to a Supreme Court judgment, the duty is subject to a nominal cost threshold, which is less onerous than the ‘disproportionate burden’ standard applicable under EEA.²¹⁷

A service provider must ‘do all that is reasonable’ in providing treatment or facilities, meaning that it must address a range of options. However, the term ‘reasonable’ also limits the duty, in that a service provider is not expected to undertake very burdensome measures.²¹⁸ In other words, restrictions are placed on the obligation both by the term ‘reasonable’ and by the nominal cost ceiling. The extent of a service provider’s duties depends on its scale and resources and on whether grants are available.²¹⁹ In that regard, adjudicators tend to adopt a more stringent approach to the duties of public bodies such as housing authorities.

*A Complainant v. A Local Authority*²²⁰ addressed grant aid to fund an extension to a house to meet the needs of a boy with autism. The nominal cost defence could not avail the respondent because it provided no evidence as to how much the extension would cost and any such work would only amount to a small proportion of the overall housing budget funded by Government. In a 2017 case, the WRC found that a requirement to give 24 hours’ notice to guarantee access to an accessible bus did not contravene the reasonable accommodation duty. Given the factors involved in ensuring wheelchair access (staff training, adaptation of vehicles and ground infrastructure), the notice requirement was reasonable and tempered by the nominal cost threshold.²²¹

²¹⁶ Labour Court, *Irish Prison Service v. A Prison Officer*, EDA1837, 17 July 2018, <https://www.workplacerelations.ie/en/cases/2018/july/eda1837.html>.

²¹⁷ *Article 26 of the Constitution and the Employment Equality Bill 1996, Re* [1997] 2 IR 321, 15 May 1997.

²¹⁸ Workplace Relations Commission, *A Service User v. A Forum*, DEC-S2016-023, 18 April 2016, <https://www.workplacerelations.ie/en/Cases/2016/April/DEC-S2016-023.html>.

²¹⁹ See, for example, Equality Tribunal, *A Complainant v. Marks and Spencer PLC*, DEC-S2009-005, 22 January 2009, Para. 5.6, <https://www.workplacerelations.ie/en/Cases/2009/January/DEC-S2009-005-Full-Case-Report.html>.

²²⁰ Equality Tribunal, DEC-S2007-049, 1 May 2007, <https://www.workplacerelations.ie/en/Cases/2007/May/DEC-S2007-049-Full-Case-Report.html>; see also Equality Tribunal, *Ms D (a tenant) v. A Local Authority*, DEC-S2007-057, 29 June 2007, <https://www.workplacerelations.ie/en/Cases/2007/June/DEC-S2007-057-Full-Case-Report.html>.

²²¹ Workplace Relations Commission, *O’Doherty v. Bus Éireann*, DEC-S2017-016, 13 April 2017, <https://www.workplacerelations.ie/en/Cases/2017/April/DEC-S2017-016.html>.

Similarly, in a 2018 decision the WRC determined that the prison authorities had undertaken adequate measures to facilitate visits by the complainant's disabled son, such as by providing meeting rooms that were cleaned in advance. Moreover, it found that providing an escort for the complainant from the main prison to a separate unit for the purpose of visits, would constitute more than a nominal cost. According to the respondent, facilitating each such visit would involve recalling three officers on 'additional hours' for eight hours, but it did not provide a figure.²²²

Very few cases have failed solely on the nominal cost issue. The two main examples concern educational establishments. *Mrs A (on behalf of her son, B) v. A Childcare Facility*²²³ concerned the admission of the complainant's child (B) to a crèche. The complainant was informed that a place would not be available unless the boy was accompanied by a full-time personal assistant, a requirement which the respondent maintained was necessary due to a combination of factors. The respondent referred to its obligations concerning child-staff ratios under childcare regulations and to the fact that, due to a disability, B was unable to physically move on his own without assistance. Government funding was available to provide five hours of assistance per week for the child, so the respondent could only accommodate B by employing another childcare worker. The Equality Tribunal accepted that the costs involved went beyond what was required under Section 4 ESA. Hiring an additional staff member in a private crèche that catered for some 30 children would have amounted to more than a nominal cost in an organisation of that size.

In *Regan v. Old Bawn Community School*,²²⁴ the Tribunal found that the provision of sign language interpretation facilities by a community college would have exceeded the nominal cost ceiling. The respondent was instructed by the Department of Education to run its part-time adult education programmes on a self-financing basis. For the year 2007/2008 a surplus of EUR 119.39 was generated from the entire adult education programme. Provision of a sign language interpreting service would have cost between EUR 1 300 and EUR 1 700. The equality officer accepted that evidence in finding that the school did not breach the provisions of Section 4.

f) Duties to provide reasonable accommodation in respect of other grounds

In Ireland, there is no legal duty to provide reasonable accommodation in respect of other grounds in the public and/or the private sector.

However, building on EU law principles, case law on direct discrimination in Ireland has established a modest form of reasonable accommodation in practice (see Section 2.2(a)). This development stems from the principle that direct discrimination may arise from a failure to afford different treatment to persons who are differently situated. To date, all cases have been on the race ground and have concerned migrant workers. In essence, employers may be obliged to modify certain employment practices to accommodate the needs of individuals who encounter linguistic and cultural difficulties in the workplace. The duty to modify employment practices is not, however, applicable to all migrant workers. Decisions have emphasised that the particular employee/s must essentially be in a 'potentially vulnerable position'.²²⁵ In assessing whether migrant workers are in that position, adjudicators make reference to their capacity to understand the English language,

²²² Workplace Relations Commission, *A Complainant on behalf of his son v. Irish Prison Service*, DEC-S2018-010, 19 April 2018, <https://www.workplacerelations.ie/en/Cases/2018/March/DEC-S2018-010.html>.

²²³ Equality Tribunal, *Mrs A (on behalf of her son, B) v. A Childcare Facility*, DEC-S2009-041, 29 June 2009, <https://www.workplacerelations.ie/en/Cases/2009/June/DEC-S2009-041-Full-Case-Report.html>.

²²⁴ Equality Tribunal, *Regan v. Old Bawn Community School*, DEC-S2010-043, 31 August 2010, <https://www.workplacerelations.ie/en/Cases/2010/August/DEC-S2010-043-Full-Case-Report.html>.

²²⁵ Equality Tribunal, *Francis v. Bus Átha Cliath*, DEC-E2006-046, 26 September 2006, Para. 4.14, <https://www.workplacerelations.ie/en/cases/2006/september/dec-e2006-046-full-case-report.html>.

their knowledge of employment rights and their ability to access support from families and other social networks.²²⁶

²²⁶ See, for example, Equality Tribunal, *Mikoliuniene v. Halcyon Contract Cleaners Ltd.*, DEC-E2015-036, 26 June 2015, <https://www.workplacerelations.ie/en/cases/2015/june/dec-e2015-036.html>; Workplace Relations Commission, *Gegeckiene v. Bradbury*, DEC-E2016-009, 21 January 2016, <https://www.workplacerelations.ie/en/cases/2016/january/dec-e2016-009.html>; Labour Court, *Horan Eco Services Limited v. Smigelskiene*, EDA2117, 13 May 2021, <https://www.workplacerelations.ie/en/cases/2021/may/eda2117.html>; Workplace Relations Commission, *Fjodorovs v. Maxela Limited*, ADJ-00030095, 28 June 2023, <https://www.workplacerelations.ie/en/cases/2023/june/adj-00030095.html>.

3 PERSONAL AND MATERIAL SCOPE

3.1 Personal scope

There is no Irish case law to date on the use of artificial intelligence and/or automated systems.

3.1.1 EU and non-EU nationals (Recital 13 and Article 3(2), Directive 2000/43 and Recital 12 and Article 3(2), Directive 2000/78)

In Ireland, there are no residence or citizenship/nationality requirements for protection under the relevant national laws transposing the directives.

However, although EEA contains no express provision concerning employees who work outside the state, the Labour Court has found that an employee must habitually carry out their work in the jurisdiction to avail of its protection.²²⁷ No such restrictions have been applied in the field of goods and services, which is governed by ESA.²²⁸

Non-EU/EEA nationals working without an employment permit cannot invoke EEA, since their contract of employment will be void by reason of illegality.²²⁹ Such persons are not, therefore, afforded protection from discrimination in employment. Persons with an irregular migration status should be able to invoke ESA, since their status will not generally be material in accessing goods or services. The matter has not been considered in case law, however.

Specific exceptions relating to treatment based on nationality are provided for under both ESA and EEA. These are discussed in greater detail in Section 4.4.

3.1.2 Natural and legal persons (Recital 16, Directive 2000/43)

a) Protection against discrimination

In Ireland, the personal scope of anti-discrimination law covers natural persons, and through judicial interpretation, legal persons for the purpose of protection against discrimination.

ESA and EEA do not specify which persons can avail of protection. However, an Equality Tribunal decision issued in 2008 found that a legal person cannot avail of ESA to claim

²²⁷ Labour Court, *A Retail Company v. A Worker*, DEE 4/2001, 5 September 2001, <https://www.workplacerelations.ie/en/Cases/2001/September/EED014.html>.

²²⁸ See, for example, Workplace Relations Commission, *Couzens and others v. Ryanair DAC*, DEC-S2018-021, 22 November 2018, <https://www.workplacerelations.ie/en/Cases/2018/November/DEC-S2018-021.html>.

²²⁹ An EEA complaint taken by an undocumented worker was upheld in Equality Tribunal, *A Domestic Worker v. An Employer*, DEC-E2011-117, 16 June 2011, <https://www.workplacerelations.ie/en/Cases/2011/June/DEC-E2011-117-Full-Case-Report.html>. However, the High Court subsequently ruled that non-EU/EEA nationals who do not have an employment permit, contrary to the Employment Permits Act 2003, have no legal standing to rely on employment legislation since their 'contract of employment' would be void by reason of illegality: *Hussein v. Labour Court* [2012] IEHC 364. The decision was reversed on appeal on technical grounds. Section 4 of the Employment Permits (Amendment) Act 2014 modified the impact of the High Court judgment somewhat. It permits a civil claim for compensation against the employer, notwithstanding the illegality of the contract, where it can be proved that the worker took all reasonable steps to comply with the requirement to have an employment permit. A 2019 Labour Court determination suggested that undocumented workers may not seek redress under employment rights legislation more generally: *TA Hotels Limited t/a Lynams Hotel v. Khoosye*, RPD1916, 4 December 2019, <https://www.workplacerelations.ie/en/cases/2019/december/rpd1916.html>. That case was applied in a 2023 discrimination complaint on the race and religion grounds. The WRC found that the Turkish national, whose application for a new work permit was declined, was not entitled to advance an EEA claim: Workplace Relations Commission, *Goksel Sen v. Specialised Air Products Ltd*, ADJ-00043304, 20 January 2023, <https://www.workplacerelations.ie/en/cases/2023/january/adj-00043304.html>.

protection against discrimination.²³⁰ The complainant in that case was an unincorporated body of persons in the form of a choir called 'Gloria (Ireland's Lesbian and Gay Choir)'. It referred a claim of direct discrimination on the sexual orientation ground when the respondent removed the description of Gloria as Ireland's gay and lesbian choir from promotional material for a choral festival. Having considered several provisions in detail and various principles of interpretation, the equality officer concluded:

'Whilst the term "person" is usually interpreted broadly to include corporate and unincorporated bodies, I am satisfied that a contrary intention is evident from the Equal Status Acts given the manner in which the discriminatory grounds are set out and the particular definition of "person" as contained in the Acts. I am therefore of the view that the legislative intent in this regard was to protect individuals and not bodies from discrimination.'²³¹

He reasoned that a body could not be of a particular gender, marital status, sexual orientation, religion and so on. In the context of identifying potential *respondents* under the Act, 'person' is defined in Section 2(1) as including 'an organisation, public body or other entity'. The Tribunal concluded that the Oireachtas thus intended that the wider definition of person should not apply to complainants. The same reasoning was adopted by the Circuit Court in an appeal from a WRC decision. The Court held that 'had the Oireachtas intended to confer upon a right for a private company to take an action for discrimination under the Equal Status Acts it would have done so in clear and unambiguous terms. It did not do so.'²³² On appeal, however, the High Court disagreed. As discussed in Section 12.2, it found that a corporate body could pursue an ESA complaint.²³³ With reference to CJEU case law on discrimination by association, it underlined that such complaints could include ones based on another (natural) person's characteristic. The Circuit Court's decision was set aside, and the case will be re-heard on the merits before the WRC. The High Court's judgment opens the prospect of unincorporated bodies also asserting legal standing to lodge discrimination complaints. Legal standing has long been sought by civil society organisations (Section 6.2(d)), but the draft law reform proposals published by the Government in 2025 do not address the matter (Section 8.2). The judgment gives greater impetus to calls to legislate for broader legal standing.

The same principles should apply to EEA, since the discriminatory grounds are set out in the same manner under both laws.²³⁴

b) Liability for discrimination

In Ireland, the personal scope of anti-discrimination law covers natural and legal persons for the purpose of liability for discrimination.

²³⁰ Equality Tribunal, *Gloria (Ireland's Lesbian & Gay Choir) v. Cork International Choral Festival Ltd.*, DEC-S2008-078, 28 October 2008, <https://www.workplacerelations.ie/en/Cases/2008/October/DEC-S2008-078-Full-Case-Report.html>; applied in, for example, Workplace Relations Commission, *Cork Deaf Club v. Office of Public Works*, DEC-S2017-039, 10 November 2017, <https://www.workplacerelations.ie/en/Cases/2017/November/DEC-S2017-039.html>, and in Workplace Relations Commission, *XTX Markets Technologies Limited v. Aviva Investors Liquidity Funds PLC*, ADJ-00044913, 8 November 2023, <https://www.workplacerelations.ie/en/cases/2023/november/adj-00044913.html> (upheld on appeal by the Circuit Court, *XTX Markets Technologies Limited v. Aviva Investors Liquidity Funds PLC* [2024] IECC 18, 24 October 2024).

²³¹ *Gloria (Ireland's Lesbian & Gay Choir) v. Cork International Choral Festival Ltd.*, DEC-S2008-078, Para. 5.5.

²³² Circuit Court, *XTX Markets Technologies Limited v. Aviva Investors Liquidity Funds PLC* [2024] IECC 18, 24 October 2024, Para. 6.4.

²³³ High Court, *XTX Markets Technologies Limited v. Aviva Investors Liquidity Funds PLC*, [2025] IEHC 651, 26 November 2025.

²³⁴ The core provision on protection from discrimination under EEA, Section 8(1), provides that 'an employer shall not discriminate against an employee or prospective employee and a provider of agency work shall not discriminate against an agency worker'. Section 2(1) defines an employee as 'a person' who works or has worked under a contract of employment and includes a member or former member of a regulatory body. That section also specifies that a contract of employment is one in which 'an individual agrees... personally to execute any work or service'.

Section 8(1) EEA prohibits discrimination by both employers and employment agencies, which manifestly includes legal persons. Most of the discrimination prohibitions are explicitly directed at the employer.²³⁵ There is no provision for complaints against the person(s) who actually engaged in the impugned conduct, subject to a couple of exceptions: Section 14 imposes liability on the person responsible for procuring or attempting to procure discrimination, and Section 10 imposes liability on the person who displays or publishes discriminatory advertising.

Persons who are liable under ESA are defined in Section 2(1) as including organisations, public bodies or other entities. The terms of the Act clearly prohibit discrimination by both natural and legal persons.

Natural persons and a 'body corporate' are liable to be prosecuted for offences under both equality laws.²³⁶

3.1.3 Private and public sector including public bodies (Article 3(1))

a) Protection against discrimination

In Ireland, the personal scope of national anti-discrimination law covers the private and public sectors, including public bodies, for the purpose of protection against discrimination.

Section 2(3) EEA indicates that private and public sector employees are protected by the Act, and this is reflected in case law. An exemption applies in relation to access to employment in another person's home for the provision of personal services, where the services affect private or family life.²³⁷ This may not conform to the provisions of the anti-discrimination directives. An exemption in relation to discrimination on the age or disability grounds applies with respect to employment in the Defence Forces.²³⁸

People accessing goods and services from either private or public sector bodies may avail of protection against discrimination under ESA.²³⁹ Section 6(2)(d) ESA exempts 'the provision of accommodation by a person in a part (other than a separate and self-contained part) of the person's home', even where the property is available for rent by members of the public.²⁴⁰ It is not clear whether this provision complies with the Racial Equality Directive.

b) Liability for discrimination

In Ireland, the personal scope of anti-discrimination law covers the private and public sectors, including public bodies, for the purpose of liability for discrimination.

Section 2(1) ESA expressly states that the persons who must not discriminate in the supply of goods and services include legal persons such as organisations, public bodies or other entities. Furthermore, the scope of EEA clearly covers the private and public sectors. The

²³⁵ Section 15 EEA imposes vicarious liability on employers and principals for the acts of their employees and agents.

²³⁶ Section 44(2) ESA; Sections 100(5) and (6) EEA.

²³⁷ Section 2(1) EEA.

²³⁸ Section 37(5) EEA. See further Section 4.3.

²³⁹ Section 2(1). See further Section 3.2.8.

²⁴⁰ The first cases to consider that exemption were heard in 2018: Workplace Relations Commission, *Bushe v. Jarvis*, ADJ-00014453, 6 September 2018, <https://www.workplacerelations.ie/en/Cases/2018/September/ADJ-00014453.html> (since the respondent was seeking to rent a room in his home, the WRC did not have jurisdiction to hear the discrimination complaint in accordance with Section 6(2)(d)); Workplace Relations Commission, *A Tenant v. A Landlord*, ADJ-00015004, 5 December 2018, <https://www.workplacerelations.ie/en/Cases/2018/December/ADJ-00015004.html> (the rental unit was self-contained and therefore the exemption was inapplicable).

discrimination prohibitions are directed at 'employers',²⁴¹ and Section 2(3) clarifies which entity constitutes the 'employer' for particular public sector employees.

3.2 Material scope

There is no Irish case law to date on the use of artificial intelligence and/or automated systems.

3.2.1 Conditions for access to employment, to self-employment or to occupation, including selection criteria, recruitment conditions and promotion, whatever the branch of activity and at all levels of the professional hierarchy (Article 3(1)(a))

In Ireland, national legislation prohibits discrimination in relation to conditions for access to employment, self-employment or occupation, including selection criteria, recruitment conditions and promotion, whatever the branch of activity and at all levels of the professional hierarchy, for the five grounds, and in both private and public sectors, as described in the directives.²⁴² Gender identity/ expression or sex characteristics are not expressly covered under EEA. However, in line with CJEU case law, the gender ground has been interpreted as including discrimination against persons who intend to, are undergoing or have undergone 'gender reassignment'.²⁴³ WRC decisions have also confirmed that non-binary persons may invoke that ground to challenge discrimination based on their gender identity.²⁴⁴ Absent any case law, it is unclear whether EEA affords protection from discrimination concerning sex characteristics.

The Equality Act 2004 amended the Employment Equality Act 1998 to extend the definition of 'contract of employment' to include those whereby 'an individual agrees with another person personally to execute any work or service for that person'.²⁴⁵ According to the authors of a book on Irish employment equality law: 'Thus the scope of protection is wider than the traditional approach of employment law which limits protection to a person employed pursuant to a contract of employment, and is wide enough to cover self-employed persons as is required by the Race and Framework Directives.'²⁴⁶ In a 2019 case, the Labour Court affirmed that EEA must be interpreted as covering self-employed persons to ensure conformity with the Directives.²⁴⁷

Section 8 EEA provides that an employer shall not discriminate against an employee or prospective employee and that a provider of agency work shall not discriminate against an agency worker in relation to, inter alia, access to employment, promotion or re-grading, and classification of posts.²⁴⁸

²⁴¹ The core provision on protection from discrimination, Section 8(1) EEA, provides that 'an employer shall not discriminate against an employee or prospective employee and a provider of agency work shall not discriminate against an agency worker'.

²⁴² Section 8 EEA applies to employers and providers of agency work. Section 11 applies to employment agencies, other than in their capacity as employers. Section 13 covers organisations of workers or of employers, trade or professional organisations, and bodies that control entry to or the carrying on of a profession, vocation or occupation. Section 13A prohibits discrimination in respect of business partnerships.

²⁴³ The foundational case is Equality Tribunal, *Hannon v. First Direct Logistics Limited*, DEC-E2011-066, 29 March 2011, <https://www.workplacerelations.ie/en/cases/2011/march/dec-e2011-066-full-caase-report.html>.

²⁴⁴ The first such case is *Customer Service Advisor v. Financial Services Provider*, ADJ-00012014, 30 October 2018, <https://www.workplacerelations.ie/en/cases/2018/october/adj-00012014.html>.

²⁴⁵ Section 2(1) EEA.

²⁴⁶ Bolger, M., Bruton C. and Kimber, C. (2022), *Employment equality law*, 2nd edition, Dublin, Thomson Reuters, Para. 2-173.

²⁴⁷ *Wall, O'Shea and Kavanagh, Veterinary Partnership t/a Moyne Veterinary Clinic v. Nowacki*, EDA198, 4 April 2019, <https://www.workplacerelations.ie/en/cases/2019/april/eda198.html>. Applied in Workplace Relations Commission, *Community Employment Scheme Worker v. A Charity Shop*, ADJ-00037918, 7 May 2024, <https://www.workplacerelations.ie/en/cases/2024/may/adj-00037918.html>.

²⁴⁸ See <http://revisedacts.lawreform.ie/eli/1998/act/21/section/8/revised/en/html>. Section 8(5)(c) EEA was inserted by the Equality (Miscellaneous Provisions) Act 2015. It provides: 'an employer shall be taken to

In 2018, two female academics succeeded in age-ground complaints with respect to promotion. One of the cases entailed an internal competition for appointment as a university's Dean of Teaching and Learning.²⁴⁹ The complainant was 55 years of age at the time and the successful candidate was 15 years younger. A *prima facie* case was established, given the 'greater proximity' of the complainant's qualifications and experience to the job specification, and her 'comparable if not superior qualifications'. The respondent failed to rebut the presumption that age was a factor in the selection process, due to, *inter alia*, a lack of transparency in how the selection panel had evaluated the candidates. The complainant was awarded EUR 35 000 in compensation, the equivalent of six months' salary.

The second case involved a paper-based promotion process for the position of Senior Lecturer.²⁵⁰ The WRC concluded that age was a factor in the respondent's decision, given various pieces of evidence, including the relative achievements of the complainant and a comparator who was 20 years younger, as well as data on the age profiles of successful and unsuccessful candidates. The WRC ordered that the complainant be retrospectively promoted and awarded EUR 30 000 in compensation.

The definition of 'employee' under Section 2(1) EEA excludes, as far as access to employment is concerned, a person employed in another person's home to provide personal services such as childcare or domestic work. This may not comply with the directives.

3.2.2 Employment and working conditions, including pay and dismissals (Article 3(1)(c))

In Ireland, national legislation prohibits discrimination in working conditions, including pay and dismissals,²⁵¹ for all five grounds and for both private and public employment. Gender identity/expression or sex characteristics are not expressly covered under EEA. However, in line with CJEU case law, the gender ground has been interpreted as including discrimination against persons who intend to, are undergoing or have undergone 'gender reassignment'.²⁵² WRC decisions have also confirmed that non-binary persons may invoke that ground to challenge discrimination based on their gender identity.²⁵³ Absent any case law, it is unclear whether EEA affords protection from discrimination concerning sex characteristics.

discriminate against an employee or prospective employee in relation to access to employment if the employer discriminates against the employee or prospective employee— ... (c) by publishing or displaying, or causing to be published or displayed, an advertisement which contravenes section 10(1) in so far as such advertisement relates to access to employment.' Notwithstanding this development, a complaint about discriminatory advertising on the age ground was dismissed, because the adjudication officer concluded that the complainant did not have *locus standi*: Workplace Relations Commission, *Carolán v. Abrivia Recruitment*, ADJ-00013092, 5 March 2019,

<https://www.workplacerelations.ie/en/cases/2019/march/adj-00013092.html>. In the author's assessment, this finding does not reflect the intention of the legislature.

²⁴⁹ Workplace Relations Commission, *Lecturer v. University*, ADJ-00003593, 7 November 2018, <https://www.workplacerelations.ie/en/cases/2018/november/adj-00003593.html>.

²⁵⁰ Workplace Relations Commission, *Cleary v. University College Dublin*, DEC-E2018-009, 26 March 2018, <https://www.workplacerelations.ie/en/cases/2018/march/dec-e2018-009.html>.

²⁵¹ Employees who are dismissed for putative discriminatory reasons may opt instead to pursue an unfair dismissals complaint under the Unfair Dismissals Acts 1997-2015: Ireland, Unfair Dismissals Act 1997, 6 April 1977; Ireland, Unfair Dismissals (Amendment) Act 1993, 14 July 1993. Revised text available at: <http://revisedacts.lawreform.ie/eli/1977/act/10/revised/en/html>. Under Section 6(2) of that legislation, 'the dismissal of an employee shall be deemed... to be an unfair dismissal if it results wholly or mainly from one or more of the following: ... (b) the religious or political opinions of the employee ... (e) the race, colour or sexual orientation of the employee, (ee) the age of the employee, (eee) the employee's membership of the travelling community'.

²⁵² The foundational case is Equality Tribunal, *Hannon v. First Direct Logistics Limited*, DEC-E2011-066, 29 March 2011, <https://www.workplacerelations.ie/en/cases/2011/march/dec-e2011-066-full-caase-report.html>.

²⁵³ The first such case is *Customer Service Advisor v. Financial Services Provider*, ADJ-00012014, 30 October 2018, <https://www.workplacerelations.ie/en/cases/2018/october/adj-00012014.html>.

Section 8 EEA provides that an employer shall not discriminate against an employee or prospective employee and that a provider of agency work shall not discriminate against an agency worker, in relation to, inter alia, conditions of employment, terms of employment, working conditions, opportunities or facilities for employment counselling, training and work experience, overtime, shift work, short time, transfers, lay-offs, redundancies, dismissals and disciplinary measures.²⁵⁴

Section 29 EEA sets out the entitlement to equal remuneration,²⁵⁵ while Section 7 defines 'like work' for the purposes of equal pay.²⁵⁶ As in previous years, relatively few equal pay cases across the five grounds were determined in 2025. Most were not upheld.²⁵⁷ For example, an equal pay claim on the Traveller community ground did not succeed absent evidence that the complainant was paid less than a comparator.²⁵⁸ Two complainants established that they had been discriminated against on the age and race grounds, respectively. A Polish national was paid less per hour than three Irish national comparators engaged in like work. While the respondent claimed that other Irish staff were paid at the same rate as the complainant, it did not support that assertion with documentary evidence and it could not explain the rationale for the difference in pay.²⁵⁹ The age-ground complaint was upheld, with the respondent effectively conceding at the WRC hearing that there was no justification for the pay differential between the 68-year-old complainant and younger colleagues working in the same role.²⁶⁰

The definition of remuneration in Section 2(1) EEA specifically excludes pension rights – meaning a pension or any other benefits flowing from an occupational pension scheme – from its ambit. Instead, Parts VII²⁶¹ and VIIA²⁶² of the Pensions Acts 1990-2018 implement the principle of equal treatment with respect to occupational pensions. The Pensions Acts cover the same nine grounds as EEA: race, religious belief, gender, age, sexual orientation, civil status, family status, disability and membership of the Traveller community. The legislation prohibits direct and indirect discrimination, discriminatory instructions and procurement to discriminate, as well as victimisation, in respect of occupational benefit schemes, occupational benefits and occupational pensions. Key exceptions include those that provide for different treatment on the grounds of age²⁶³ and disability to take account of a lesser amount of work undertaken by virtue of a disability and to provide for more favourable treatment where early retirement arises from a disability.²⁶⁴

²⁵⁴ See <http://revisedacts.lawreform.ie/eli/1998/act/21/section/8/revised/en/html>.

²⁵⁵ See <http://revisedacts.lawreform.ie/eli/1998/act/21/section/29/revised/en/html>.

²⁵⁶ See <http://revisedacts.lawreform.ie/eli/1998/act/21/section/7/revised/en/html>.

²⁵⁷ Unsuccessful equal pay complaints include the following: Labour Court, *Mercato Ltd. v. Ogurčak*, EDA2562, 12 September 2025, <https://www.workplacerelations.ie/en/cases/2025/september/eda2562.html> (a complaint on the race ground failed because the Slovak complainant was paid more than his Irish national comparator); Workplace Relations Commission, *Dragomir v. B-Pods (Ireland) Limited*, ADJ-00048926, 6 January 2025, <https://www.workplacerelations.ie/en/cases/2025/january/adj-00048926.html>: a Romanian national's Irish comparators were not engaged in 'like work'; Workplace Relations Commission, *Dicken v. Velocity EHS Ireland*, ADJ-00058415, 10 October 2025, <https://www.workplacerelations.ie/en/cases/2025/october/adj-00058415.html>: two Irish comparators were not engaged in 'like work' that was the same or similar to that of the South African complainant; the pay differentials reflected prior experience, specialised skills and functional distinctions.

²⁵⁸ Workplace Relations Commission, *Boland v. Munster Technological University MTU*, ADJ-00053731, 12 February 2025, <https://www.workplacerelations.ie/en/cases/2025/february/adj-00053731.html>: the chosen comparator was also a member of the Traveller community and employed at a higher grade than the complainant.

²⁵⁹ Workplace Relations Commission, *Sierralta Madriz v. A.P. Haslam Limited*, ADJ-00059544, 5 December 2025, <https://www.workplacerelations.ie/en/cases/2025/december/adj-00059544.html>: the complainant was awarded arrears of pay for the 71 weeks he had worked for the respondent and EUR 2 500 compensation.

²⁶⁰ Workplace Relations Commission, *Casey v. Irish Heart Foundation CGL*, ADJ-00051202, 3 November 2025, <https://www.workplacerelations.ie/en/cases/2025/adj-00051202.html>: the complainant was awarded pay arrears for three years and EUR 15 000 compensation.

²⁶¹ Inserted by [Section 22](#) of the Social Welfare (Miscellaneous Provisions) Act 2004, 25 March 2004.

²⁶² Inserted by [Section 27](#) of the Social Welfare, Pensions and Civil Registration Act 2018.

²⁶³ Section 72(1) Pensions Acts 1990-2018.

²⁶⁴ Section 73 Pensions Acts 1990-2018.

Many of the cases to date concern the gender and civil status grounds, but in one case a complainant who had been denied admittance to an occupational pension scheme succeeded in his claim of discrimination on grounds of race, and the company was ordered to register him in the scheme and to pay the contributions due.²⁶⁵ A discrimination complaint on the age, civil status and sexual orientation grounds was the subject of a reference to the CJEU in *Parris v. Trinity College Dublin*.²⁶⁶ Mr Parris argued that the pension scheme operated by his employer was discriminatory, as it provided that an employee's partner would only be entitled to a survivor's pension in cases where the employee had married or entered a civil partnership before reaching the age of 60. National law prohibited the complainant from marrying and did not enable him to enter a civil partnership prior to his 60th birthday. It was, therefore, impossible for him to comply with the so-called survivor's rule in the pension scheme. Three questions were referred to the CJEU: whether the survivor rule was directly or indirectly discriminatory under Directive 2000/78/EC (1) on the ground of sexual orientation, (2) on the ground of age or (3) if neither age nor sexual orientation applied in isolation, because of the combined effect of both. Each question was answered in the negative, leaving Parris and others in his position without a remedy under either domestic or EU law.²⁶⁷ The Pensions Acts were amended in 2018 to rectify the situation. Part VIIA²⁶⁸ provides that, if a member of an occupational pension scheme was in a committed relationship with a same-sex partner at the time they reached the age or date of retirement set out in the scheme rules and then married that partner within three years of the enactment of the Marriage Act 2015, they are deemed eligible for a survivor pension.

No complaints under the Pensions Acts were upheld in 2025.²⁶⁹

Section 35(1) EEA is a cause of concern as it permits employers to pay employees with disabilities different rates of pay if they are restricted in their capacity to do the same amount of work or to work for the same number of hours as a person who does not have a disability. This section contains only one limitation, which is that the employee should not be remunerated at a rate below the level required by the National Minimum Wage Act 2000.²⁷⁰ There is nothing to suggest that the work should be remunerated at a proportionate level to that of an employee without a disability. This may not comply with the directive. The Labour Court referred to the provision in rejecting a complaint of victimisation it determined in 2023.²⁷¹ As a reasonable accommodation measure, the complainant's working pattern was changed from a shift rotation that included night work. His pay was then reduced by 20 % which amounted to a deduction of the night shift premium. The Court found that 'the Respondent acted within the terms of Section 35(1) by reducing the Complainant's pay in a manner that was commensurate with the reduction in contractual duties he was in a position to perform'.

²⁶⁵ Equality Tribunal, *Czyzycki v. Fegan*, DEC-P2011-007, 22 December 2011, <https://www.workplacerelations.ie/en/Cases/2011/December/DEC-P2011-007-Full-Case-Report.html>.

²⁶⁶ Equality Tribunal, *Parris v. Trinity College Dublin and others*, DEC-P2013-004, 16 December 2013, <https://www.workplacerelations.ie/en/Cases/2013/December/DEC-P2013-004.html>; Judgment of 24 December 2016, *Parris v. Trinity College Dublin and others*, C-443/15, ECLI:EU:C:2016:897.

²⁶⁷ *Parris v. Trinity College Dublin and others*, C-443/15.

²⁶⁸ Inserted by Section 27 of the Social Welfare, Pensions and Civil Registration Act 2018, <http://www.irishstatutebook.ie/eli/2018/act/37/section/27/enacted/en/html#sec27>.

²⁶⁹ A complaint on an unspecified ground was dismissed because it was lodged outside the time limit; the complainant had retired from the civil service in 2010: Workplace Relations Commission, *O'Brien v. Department of Justice*, ADJ-00058345, 25 September 2025, <https://www.workplacerelations.ie/en/cases/2025/september/adj-00058345.html>. Other complainants either did not attend the WRC hearing or had lodged their complaints under the incorrect legislation.

²⁷⁰ Section 35(4) EEA. *National Minimum Wage Act 2000*, 31 March 2000.

²⁷¹ Labour Court, *DHL Supply Chain (Ireland) Limited v. McAndrew*, EDA2341, 14 November 2023, <https://www.workplacerelations.ie/en/cases/2023/december/eda2341.html>.

3.2.3 Access to all types and all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience (Article 3(1)(b))

In Ireland, national legislation prohibits discrimination in vocational training outside the employment relationship, such as adult lifelong learning courses or vocational training provided by technical schools or universities. Discrimination in these areas is prohibited on nine grounds: age, civil status, disability, family status, gender, race, religious belief, sexual orientation and membership of the Traveller community (Section 3(2) ESA). Gender identity/expression or sex characteristics are not expressly covered under EEA. However, in line with CJEU case law, the gender ground has been interpreted as including discrimination against persons who intend to, are undergoing or have undergone 'gender reassignment'.²⁷² WRC decisions have also confirmed that non-binary persons may invoke that ground to challenge discrimination based on their gender identity.²⁷³ Absent any case law, it is unclear whether EEA affords protection from discrimination concerning sex characteristics.

Sections 8(1) and 8(7) EEA prohibit discrimination in relation to training or experience for or in relation to employment. The employer is not permitted to refuse or not to afford the employee the same opportunities on any of the discriminatory grounds when it comes to 'employment counselling, training (whether on or off the job) and work experience'.

This provision is further reinforced by Section 12, which prohibits discrimination in vocational training on the nine discriminatory grounds. It is not permissible to discriminate in the provision of vocational training in relation to the terms on which the course or facility is offered, by refusing or omitting to afford access to any such course or facility, or in the manner in which any such course or facility is provided.²⁷⁴

Vocational training is defined, in Section 12(2), as:

'any system of instruction which enables a person being instructed to acquire, maintain, bring up to date or perfect the knowledge or technical capacity required for the carrying on of an occupational activity and which may be considered as exclusively concerned with training for such an activity.'

Courses that are exclusively concerned with training for an occupational activity are thus covered by EEA.²⁷⁵ An EEA complaint was dismissed in 2024 because an undergraduate degree in early childhood studies was not such a course.²⁷⁶ According to the Labour Court,²⁷⁷ the definition may not align with the meaning of vocational training adopted by the CJEU in cases such as *Gravier v. City of Liège*²⁷⁸ and *Blaizot v. University of Liège*.²⁷⁹ It noted, however, that both judgments concerned the free movement principle in

²⁷² The foundational case is Equality Tribunal, *Hannon v. First Direct Logistics Limited*, DEC-E2011-066, 29 March 2011, <https://www.workplacerelations.ie/en/cases/2011/march/dec-e2011-066-full-caase-report.html>.

²⁷³ The first such case is *Customer Service Advisor v. Financial Services Provider*, ADJ-00012014, 30 October 2018, <https://www.workplacerelations.ie/en/cases/2018/october/adj-00012014.html>.

²⁷⁴ Section 12(1) EEA.

²⁷⁵ Training to become a member of the volunteer Garda Reserve was not covered by Section 12 EEA since the Garda Reserve is not an occupational activity: High Court, *An Garda Síochána v. Oberoi* [2013] IEHC 267, 30 May 2013. A Masters in Social Science degree programme that comprised 50 % academic and 50 % practical work was not vocational training according to the Equality Tribunal 'as it was not exclusively concerned with perfecting the knowledge or technical capacity to carry out an occupational activity': *Kelly v. University College Dublin*, DEC-S2006-076, November 2006, <https://www.workplacerelations.ie/en/Cases/2006/November/DEC-S2006-076-Full-Case-Report.html>.

²⁷⁶ Workplace Relations Commission, *Radosevic v. Dundalk Institute of Technology*, ADJ-00047603, 10 September 2024, <https://www.workplacerelations.ie/en/cases/2024/september/adj-00047603.html>.

²⁷⁷ *Dublin Institute of Technology v. Awojuola*, EDA 1335, 23 December 2013, <https://www.workplacerelations.ie/en/Cases/2013/December/EDA1335.html>.

²⁷⁸ Judgment of 13 February 1985, *Gravier v. City of Liège*, Case C-293/83, ECLI:EU:C:1985:69.

²⁷⁹ Judgment of 2 February 1988, *Blaizot v. University of Liège*, Case C-24/86, ECLI:EU:C:1988:43.

Regulation 1612/68 and it could not be assumed that a 'similarly expansive interpretation' of the term would be taken for the purpose of Directive 2000/43/EC. Other education and training courses are subject instead to the anti-discrimination provisions of the Equal Status Acts 2000-2018.²⁸⁰

Cumulatively, the provisions of both EEA and ESA cover the vocational programmes and work experience referred to under Article 3(1)(b). The complainant in a 2021 case referred complaints under both laws.²⁸¹ His EEA complaint failed as he was working on the respondent's farm in a voluntary capacity and was not pursuing vocational training. However, the ESA complaint was upheld. The respondent directly discriminated against the complainant on the disability ground in terminating his work experience and ceasing to provide housing when it became aware of his HIV positive status. However, the narrow definition of vocational training under EEA may give rise to a compliance issue, since the duty to provide reasonable accommodation on the disability ground under ESA is less extensive than that required under Directive 2000/78/EC.

An exception concerning the religion ground may raise compliance issues. Subsections 3-5 of Section 12 EEA empower the relevant Minister, with the consent of the Minister for Children, Equality, Disability, Integration and Youth, to make an order reserving places on programmes of training for nurses and primary school teachers to persons of a certain religion. The exemption may be applied for by an educational or training body '[f]or the purposes of ensuring the availability of nurses to hospitals and teachers to primary schools which are under the direction or control of a body established for religious purposes or whose objectives include the provision of services in an environment which promotes certain religious values, and in order to maintain the religious ethos of the hospitals or primary schools.'²⁸² Pursuant to that section, the Employment Equality Act 1998 (Section 12) (Reservation of vocational training places) Order 2023 (S.I. No. 405 of 2023) permits Dublin City University to reserve 32 places in its Bachelor of Education degree programme for students who are members of the Church of Ireland or who belong to the broad Protestant tradition.²⁸³ This provision may be too broad to comply with the terms of Article 4(2), since there is no requirement to demonstrate that the group of prospective teachers' religious beliefs constitute a genuine, legitimate and justified occupational requirement.

3.2.4 Membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations (Article 3(1)(d))

In Ireland, national legislation prohibits discrimination in relation to membership of and involvement in workers' or employers' organisations, as formulated in the directives for all five grounds and for both private and public employment.

Section 13(1) EEA prohibits discrimination on all five grounds in relation to organisations of workers or of employers, trade or professional organisations, and bodies that control entry to or the carrying on of a profession, vocation or occupation. This provision relates both to membership of the body in question and to any benefits provided by that body, apart from pension rights, which fall instead under the ambit of Parts VII and VIIA of the Pensions Acts 1990-2018. Section 13(2) EEA outlaws discriminatory advertising by such bodies. Section 13A prohibits discrimination in respect of business partnerships. Gender identity/expression or sex characteristics are not expressly covered under EEA. However, in line with CJEU case law, the gender ground has been interpreted as including

²⁸⁰ Section 7 ESA. See Section 3.2.7 for more on this provision.

²⁸¹ Workplace Relations Commission, *Trainee v. Organic Farm*, ADJ-00025701, 26 November 2021, <https://www.workplacerelations.ie/en/cases/2021/november/adj-00025701.html>.

²⁸² Section 12(4) EEA.

²⁸³ See <https://www.irishstatutebook.ie/eli/2023/si/405/made/en/print>.

discrimination against persons who intend to, are undergoing or have undergone 'gender reassignment'.²⁸⁴ WRC decisions have also confirmed that non-binary persons may invoke that ground to challenge discrimination based on their gender identity.²⁸⁵ Absent any case law, it is unclear whether EEA affords protection from discrimination concerning sex characteristics.

3.2.5 Social protection, including social security and healthcare (Article 3(1)(e) Directive 2000/43)

In Ireland, national legislation prohibits discrimination in social protection, including social security and healthcare, as formulated in the Racial Equality Directive.

Discrimination in this area is prohibited on all EU grounds as well as on the grounds of civil status, family status and membership of the Traveller community (which overlaps with the race ground).²⁸⁶ Gender identity/expression or sex characteristics are not expressly covered under ESA. However, the gender ground has been interpreted as including discrimination against persons who intend to, are undergoing or have undergone 'gender reassignment'.²⁸⁷ WRC decisions have also confirmed that non-binary persons may invoke that ground to challenge discrimination based on their gender identity.²⁸⁸ Absent any case law, it is unclear whether ESA affords protection from discrimination concerning sex characteristics.

Under Section 5(1) ESA: 'A person shall not discriminate in disposing of goods to the public generally or a section of the public or in providing a service, whether the disposal or provision is for consideration or otherwise and whether the service provided can be availed of only by a section of the public.' 'Service' means a service or facility of any nature, which is available to the public generally or a section of the public (Section 2(1)). The legislation does not refer specifically to social protection, healthcare or social security.²⁸⁹ However, the first instance forum, the Equality Tribunal (now the Workplace Relations Commission) interpreted the definition of 'service' to include social protection from the outset.²⁹⁰ For example, cases have upheld discrimination in relation to social welfare payments such as rent supplement²⁹¹ and have established that allowances for persons with disabilities are 'services'.²⁹² Healthcare is also covered.²⁹³

²⁸⁴ The foundational case is Equality Tribunal, *Hannon v. First Direct Logistics Limited*, DEC-E2011-066, 29 March 2011, <https://www.workplacerelations.ie/en/cases/2011/march/dec-e2011-066-full-caase-report.html>.

²⁸⁵ The first such case is *Customer Service Advisor v. Financial Services Provider*, ADJ-00012014, 30 October 2018, <https://www.workplacerelations.ie/en/cases/2018/october/adj-00012014.html>.

²⁸⁶ Section 3(2) ESA.

²⁸⁷ The first such case under ESA was Equality Tribunal, *O'Byrne v. AIB*, DEC-S2013-015, 2 December 2013, <https://www.workplacerelations.ie/en/cases/2013/december/dec-s2013-015.html>.

²⁸⁸ The first such case is *Customer Service Advisor v. Financial Services Provider*, ADJ-00012014, 30 October 2018, <https://www.workplacerelations.ie/en/cases/2018/october/adj-00012014.html>. While that and subsequent cases were EEA complaints, it is to be expected that the same approach will be adopted under ESA.

²⁸⁹ Discrimination in the context of social housing provision is prohibited under Section 6 ESA. See Section 3.2.9.

²⁹⁰ The foundational case is: Equality Tribunal, *Donovan v. Donnellan*, DEC-S2001-011, 17 October 2001, <https://www.workplacerelations.ie/en/cases/2001/october/dec-s2001-011.html>; applied, for example, in Equality Tribunal, *McQuaid v. Department of Social Protection*, DEC-S2014-015, 2 October 2014, <https://www.workplacerelations.ie/en/Cases/2014/October/DEC-S2014-015.html>.

²⁹¹ Equality Tribunal, *Mr A v. Department of Social Protection*, DEC-S2013-010, 11 October 2013, <https://www.workplacerelations.ie/en/Cases/2013/October/DEC-S2013-010.html>.

²⁹² Equality Tribunal, *Mrs X (on behalf of her daughter, Ms Y) v. The Minister for Social and Family Affairs*, DEC-S2009-039, 10 June 2009, at paras. 5.1-5.2, <https://www.workplacerelations.ie/en/Cases/2009/June/DEC-S2009-039-Full-Case-Report.html>.

²⁹³ See, for example, Workplace Relations Commission, *A Potential Patient v. A Medical Centre*, ADJ-00019028, 19 June 2019, <https://www.workplacerelations.ie/en/cases/2019/june/adj-00019028.html>. A person detained in a mental health institution can avail of the ESA to contest the nature of the facilities provided there: Equality Tribunal, *A Patient v. Health Service Provider and A Hospital*, DEC-S2010-053, 1 December 2010, <https://www.workplacerelations.ie/en/Cases/2010/December/DEC-S2010-053-Full-Case-Report.html>.

The main compliance concern in this regard concerns the exemption provided for under Section 14(1)(a)(i) ESA, which provides:

‘Nothing in this Act shall be construed as prohibiting—
 (a) the taking of any action that is required by or under—
 (i) any enactment or order of a court.’

The word ‘enactment’ is not defined in ESA. It covers Acts of the Oireachtas and statutory instruments.²⁹⁴ Precedents established that Government department circulars and other administrative rules were not enactments and so were amenable to challenge under ESA.²⁹⁵ However, in a 2021 judgment the High Court held that the exemption encompasses guidance notes that a public body devised to process applications for driving licences.²⁹⁶ The guidance notes are referred to, but do not form part of the applicable statutory instrument. The judgment suggests that policy or guidance adopted by a public body which is expressly derived from legislation may be covered by the exemption. In a 2025 decision, the WRC rejected the respondent’s argument that the exemption was applicable because it was processing applications for housing assistance payments in line with the local authority’s ‘internal guidelines’.²⁹⁷ The WRC found that the internal guidelines ‘are not “enactments” as envisioned by Section 14, and cannot operate so as to exclude the complaint from the provisions of the Act.’ It appears that the WRC will maintain a distinction between guidance that is explicitly referenced in an enactment and guidelines that are adopted by a public body in carrying out a function conferred by it under legislation. It remains to be seen how this boundary will be addressed in further case law.

Where some element of discretion exists in relation to the granting of a benefit, other good or service, the statutory exemption is inapplicable, since it relates only to discriminatory treatment *required* by law.²⁹⁸ However, where the putative discriminatory treatment is required by law, Section 14(1)(a)(i) operates to remove the measure from the ambit of ESA. Several challenges to social protection provisions have failed on that basis.²⁹⁹

Since the Racial Equality Directive does not envisage any blanket exemption for discriminatory measures required by law, it is questionable whether Section 14(1)(a)(i) conforms to its terms. Judicial interpretation will be crucial in determining whether Ireland

²⁹⁴ Secondary legislation is covered by the term ‘enactment’ in Section 14(1)(a)(i). Following the entry into force of the Equal Status Act 2000, Section 2(1) of the Interpretation Act 2005 defined ‘enactment’ to mean ‘an Act or statutory instrument or any portion of an Act or statutory instrument’. The Interpretation Act was applied by the Equality Tribunal in finding that tax regulations were enactments and so were immune from challenge under the ESA: *Dowd v. Minister for Finance*, DEC-S2011-061, 15 November 2011, <https://www.workplacerelations.ie/en/Cases/2011/December/DEC-S2011-061-Full-Case-Report.html>.

²⁹⁵ See, for example, Circuit Court Dublin, *Health Service Executive v. Quigley* (Linnane J., unreported, 26 April 2010).

²⁹⁶ High Court, *A.B. v. Road Safety Authority* [2021] IEHC 217, 25 March 2021. The judgment was the culmination of an appeal from the WRC’s decision in *An Asylum Seeker v. A Statutory Body*, ADJ-00020743, 28 January 2020, <https://www.workplacerelations.ie/en/cases/2020/january/adj-00020743.html>.

²⁹⁷ Workplace Relations Commission, *O’Connell v. Meath County Council*, ADJ-00050569, 12 May 2025, <https://www.workplacerelations.ie/en/cases/2025/may/adj-00050569.html>.

²⁹⁸ Equality Tribunal, *Mr A v. Department of Social Protection*, DEC-S2013-010, 11 October 2013, <https://www.workplacerelations.ie/en/Cases/2013/October/DEC-S2013-010.html>.

²⁹⁹ In *Equality Tribunal, A Complainant v. Department of Social and Family Affairs*, DEC-S2008-013, 19 February 2008, <https://www.workplacerelations.ie/en/Cases/2008/February/DEC-S2008-013-Full-Case-Report.html>, the equality officer found that the ESA could not be used to challenge the method of calculating Pay Related Social Insurance (PRSI) contributions for the purposes of the Old Age (Contributory) Pension [now called the State Pension (Contributory)]. The scheme in question is governed by statute: Section 108 of the Social Welfare Consolidation Act 2005 (as amended by Section 8 of the Social Welfare Law Reform and Pensions Act 2006). See also Equality Tribunal, *A Complainant v. Department of Social Protection*, DEC-S2011-053, 18 November 2011, <https://www.workplacerelations.ie/en/Cases/2011/November/DEC-S2011-053-Full-Case-Report.html>. For a more recent example, see: Workplace Relations Commission, *Wellard v. Minister for Social Protection*, ADJ-00045864, 20 January 2025, <https://www.workplacerelations.ie/en/cases/2025/january/adj-00045864.html>.

is in compliance with Directive 2000/43/EC. Pending such interpretation, it is not possible to say definitively whether Ireland is in compliance with the Racial Equality Directive.³⁰⁰

a) Article 3(3) exception (Directive 2000/78)

Irish law does not rely on the exception in Article 3.3 of the Employment Equality Directive in relation to religion or belief, age, disability and sexual orientation.

3.2.6 Social advantages (Article 3(1)(f) Directive 2000/43)

In Ireland, national legislation does not expressly prohibit discrimination in social advantages, as formulated in the Racial Equality Directive.

The term 'social advantage' is not expressly referred to under ESA. Section 2(1) defines 'service' as including 'facilities for (i) banking, insurance, grants, loans, credit or financing, (ii) entertainment, recreation or refreshment, (iii) cultural activities, or (iv) transport or travel'. Case law establishes that 'service'³⁰¹ encompasses a broad category of benefits provided by public and private actors such as free travel passes on public transport,³⁰² maintenance grants for third-level students³⁰³ and sports scholarships.³⁰⁴ However, a Circuit Court judgment concerning an ex gratia payment scheme set up by the Irish Government to compensate people affected by the liberalisation of the taxi industry has cast some doubt on the applicability of anti-discrimination law to social advantages provided by the government.³⁰⁵ The Court found that 'the Tribunal had no jurisdiction to entertain the complaint because to do so was "in effect, to purport to review a decision of the Government, which ... falls outside the scope of the powers conferred on it by the 2000 Act"'.³⁰⁶ Furthermore, discrimination complaints concerning social advantages may fail because they are covered by the exemption for treatment required by law under Section 14(1)(a) (see Section 3.2.5).³⁰⁷ It is not clear, therefore, whether national law complies fully with the Racial Equality Directive.

In addition to the race and Traveller community grounds, discrimination is prohibited on the grounds of age, disability, religion and sexual orientation (Section 3(2) ESA). Gender identity/expression or sex characteristics are not expressly covered under ESA. However, the gender ground has been interpreted as including discrimination against persons who intend to, are undergoing or have undergone 'gender reassignment'.³⁰⁸ WRC decisions have also confirmed that non-binary persons may invoke that ground to challenge discrimination based on their gender identity.³⁰⁹ Absent any case law, it is unclear whether ESA affords

³⁰⁰ See Walsh, J. (2019), 'Primacy of national law over EU law? The application of the Irish Equal Status Act', *European Equality Law Review* 2019(2), pp. 35–48.

³⁰¹ These cases were referred under Section 5 ESA, which prohibits discrimination in the context of providing goods or services to members of the public. The grounds covered are all those provided for under Section 3(2), that is, gender, age, race, religion, family status, disability, civil status, sexual orientation and membership of the Traveller community.

³⁰² Equality Tribunal, *Thompson v. Iarnród Éireann*, DEC-S2009-015, 2 March 2009, <https://www.workplacerelations.ie/en/Cases/2009/March/DEC-S2009-015-Full-Case-Report.html>.

³⁰³ Equality Tribunal, *Two Complainants v. Department of Education and Science*, DEC-S2003-042/043, 28 May 2003, https://www.workplacerelations.ie/en/Cases/2003/May/DEC-S2003-042-043_Full_Case_Report.html.

³⁰⁴ Equality Tribunal, *MacMahon v. Department of Physical Education and Sport, University College Cork*, DEC-S2009-014, 2 March 2009, <https://www.workplacerelations.ie/en/Cases/2009/March/DEC-S2009-014-Full-Case-Report.html>.

³⁰⁵ Circuit Court, *Pobal v. Hoey*, unreported judgment, 14 April 2011.

³⁰⁶ Fennelly, D. (2012), *Selected issues in Irish equality case law 2008–2011*, p. 91.

³⁰⁷ For instance, several complaints about potentially discriminatory tax credit provisions fell outside the ambit of ESA because of the Section 14(1)(a) exemption, e.g. Equality Tribunal, *Dowd v. Gilvarry and HSE West*, DEC-S2011-060, 15 December 2011, <https://www.workplacerelations.ie/en/cases/2011/december/dec-s2011-060-full-case-report.html>.

³⁰⁸ The first such case under ESA was Equality Tribunal, *O'Byrne v. AIB*, DEC-S2013-015, 2 December 2013, <https://www.workplacerelations.ie/en/cases/2013/december/dec-s2013-015.html>.

³⁰⁹ The first such case is *Customer Service Advisor v. Financial Services Provider*, ADJ-00012014, 30 October 2018, <https://www.workplacerelations.ie/en/cases/2018/october/adj-00012014.html>. While that and

protection from discrimination concerning sex characteristics.

3.2.7 Education (Article 3(1)(g) Directive 2000/43)

In Ireland, national legislation prohibits discrimination in education, as formulated in the Racial Equality Directive.

Section 7 ESA covers educational establishments. ‘Educational establishment’ is broadly defined, covering pre-school services through to higher-level institutions, whether or not they are supported by public funds. Public and private establishments providing educational services are therefore covered. Discrimination on nine grounds is prohibited in respect of admission to the terms or conditions of admission of a person as a student to the establishment; the access of a student to any course, facility or benefit provided by the establishment; any other term or condition of participation in the establishment by a student; or the expulsion of a student from the establishment or any other sanction against the student. The grounds covered are gender, age, race, religion, family status, disability, civil status, sexual orientation and membership of the Traveller community.³¹⁰ Gender identity/expression or sex characteristics are not expressly covered under ESA. However, the gender ground has been interpreted as including discrimination against persons who intend to, are undergoing or have undergone ‘gender reassignment’.³¹¹ WRC decisions have also confirmed that non-binary persons may invoke that ground to challenge discrimination based on their gender identity.³¹² Absent any case law, it is unclear whether ESA affords protection from discrimination concerning sex characteristics.

Section 7 only refers to students or prospective students. However, other people, such as parents of pupils, can refer cases against schools or other educational establishments under Section 5 (provided they are accessing a service, good or facility).³¹³ The Department of Education is not an ‘educational establishment’ but may be regarded as providing goods and services under Section 5, as may other entities involved in providing facilities or setting policies in the area of education.³¹⁴

Case law has dealt with the accommodation of students with disabilities³¹⁵ and broader questions of access across all levels of the education system.³¹⁶ In a 2015 race-ground

subsequent cases were EEA complaints, it is to be expected that the same approach will be adopted under ESA.

³¹⁰ Section 3(2) ESA. [Section 29](#) of the Education Act 1998 provides for a general complaints mechanism in relation to enrolment, suspension or exclusion of students from schools: Ireland, Education Act 1998, 23 December 1998.

³¹¹ The first such case under ESA was Equality Tribunal, *O’Byrne v. AIB*, DEC-S2013-015, 2 December 2013, <https://www.workplacerelations.ie/en/cases/2013/december/dec-s2013-015.html>.

³¹² The first such case is *Customer Service Advisor v. Financial Services Provider*, ADJ-00012014, 30 October 2018, <https://www.workplacerelations.ie/en/cases/2018/october/adj-00012014.html>. While that and subsequent cases were EEA complaints, it is to be expected that the same approach will be adopted under ESA.

³¹³ See, for example, Equality Tribunal, *A Separated Father v. A Community School*, DEC-S2010-049, 5 November 2010, <https://www.workplacerelations.ie/en/Cases/2010/November/DEC-S2010-049-Full-Case-Report.html>: access to students’ records was a service provided to parents having regard to both ESA and the Education Act 1998.

³¹⁴ See, for example, Equality Tribunal, *Two Named Complainants v. Minister for Education and Science*, DEC-S2006-077, 3 November 2006, <https://www.workplacerelations.ie/en/Cases/2006/November/DEC-S2006-077-Full-Case-Report.html>, and Workplace Relations Commission, *Flynn v. Minister for Education and Skills*, ADJ-00031320, 16 September 2024, <https://www.workplacerelations.ie/en/cases/2024/september/adj-00031320.html>.

³¹⁵ See for example, Workplace Relations Commission, *An Infant v. A Creche*, ADJ-00053564, 28 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/adj-00053564.html>: failure to provide reasonable accommodation to a child attending pre-school.

³¹⁶ See, for example, Equality Tribunal, *Student (Minor) v. Secondary School*, ADJ-00054056, 13 May 2025, <https://www.workplacerelations.ie/en/cases/2025/may/adj-00054056.html> (gender and sexual orientation grounds); *Faulkner v. St Ita’s & St Joseph’s School, Tralee*, DEC-S2006-037, 24 June 2006, <https://www.workplacerelations.ie/en/Cases/2006/May/DEC-S2006-037-Full-Case-Report.html> (Traveller community ground); and *Lyamina v. The Department of Education and Science*, DEC-S2009-016, 6 March

case, a criterion in a school admissions policy contravened the indirect discrimination prohibition. The criterion accorded priority to prospective students based on their date of application. The complainant, as an adopted child of Chinese national and ethnic origins, was not in the same position to submit her application as early applicants of Irish national origins who were not adopted. Her mother was unable to apply for a place close to the complainant's birth date because the adoption process was not concluded until the complainant was 16 months old. Evidence was presented to the effect that 82 % of non-family adoptions involved children of a non-Irish national origin and that such adoptions took between six and 24 months to complete. The Tribunal found that the provision put the complainant and foreign adopted children generally at a particular disadvantage compared with Irish-born children.³¹⁷ It concluded that, while the admission criterion pursued the legitimate aim of operating a fair and reasonable admissions policy, the respondent did not establish that the provision was necessary to achieve that aim.

There were no successful complaints concerning education on either the Traveller community or race ground in 2025. IHREC supported a case on both grounds, which addressed the treatment of a Traveller girl by a secondary school. It revolved around the detention of the child in a room for several hours following a dispute between the school principal and the girl's mother. The WRC found that the respondent was unaware of the complainant's ethnicity.³¹⁸

Discrimination in access to schools has raised compliance issues in the past. In a high-profile case, the Supreme Court overturned an earlier decision of the Equality Tribunal and ruled that a school admission policy that prioritised former pupils' children did not constitute indirect discrimination against Travellers.³¹⁹ It determined that the evidence presented by the complainant did not demonstrate that the school's policy placed Travellers in a situation of particular disadvantage. In effect, the Court held that statistical evidence was *required* to establish a prima facie case; it did not consider EU law in assessing the ESA prohibition of indirect discrimination. In its amicus curiae submission, the Equality Authority argued that the indirect discrimination test should conform to that of the Racial Equality Directive.³²⁰ The Supreme Court, however, applied a test formulated with reference to the provisions of the domestic statute (ESA) and did not consider whether Travellers constitute an ethnic group for the purposes of EU law.

Discrimination in accessing schools has been the subject of extensive debate over the past decade. International human rights bodies³²¹ and IHREC³²² had recommended amending ESA, and in 2017 the Government undertook a consultation process on the role of religion in school admissions. Several changes were enacted under the Education (Admission to Schools) Act 2018.³²³ Schools were obliged to phase out existing waiting lists by 31 January

2009, <https://www.workplacerelations.ie/en/Cases/2009/March/DEC-S2009-016-Full-Case-Report.html> (race ground).

³¹⁷ Equality Tribunal, *Ms. A (on behalf of her daughter, B) v. A Girls Secondary School*, DEC-S2015-001, 6 February 2015, <https://www.workplacerelations.ie/en/Cases/2015/February/DEC-S2015-001.html>.

³¹⁸ Workplace Relations Commission, *A Minor (next friend, Mother) v. Board of Management of a Co-Educational Post Primary School*, ADJ-00038804, 3 March 2025, <https://www.workplacerelations.ie/en/cases/2025/march/adj-00038804.html>.

³¹⁹ Supreme Court, *Stokes v. Christian Brothers' High School Clonmel* [2015] IESC 13, 24 February 2015.

³²⁰ See: https://www.ihrec.ie/download/pdf/mary_stokes_v_christian_brothers_high_school_clonmel_ors_13_dec_2012.pdf.

³²¹ See, for example, UN Committee on the Rights of the Child (2016), *Concluding observations on the combined third and fourth periodic reports of Ireland*, 29 January 2016, [CRC/C/IRL/CO/3-4](https://www.unhcr.org/refugees/crc/irl/co/3-4), Para. 64(a); UN Committee on the Elimination of Racial Discrimination (2011), *Concluding observations of the Committee on the Elimination of Racial Discrimination: Ireland*, [CERD/C/IRL/CO/3-4](https://www.unhcr.org/refugees/cerd/irl/co/3-4), Para. 26.

³²² Irish Human Rights and Equality Commission (2016), *Observations on the Education (Admission to Schools) Bill 2016*.

³²³ Section 9, Education (Admission to Schools) Act 2018, 18 July 2018, <http://www.irishstatutebook.ie/eli/2018/act/14/enacted/en/html>, inserting Part X of the Education Act 1998, 23 December 1998, <http://www.irishstatutebook.ie/eli/1998/act/51/enacted/en/print.html>. Part X also obliges schools to prepare and publish an admissions policy which stipulates, inter alia, that the school does not discriminate on the nine grounds provided for under ESA.

2025, which should ensure that children who move to a new area are not disadvantaged. The 2018 Act also effected a reform that should improve the situation encountered in *Stokes*. Oversubscribed schools are now not permitted to allocate more than 25 % of places to the children of past pupils. However, the UN Committee on the Rights of the Child has recommended that the provision in question be removed entirely.³²⁴ While past pupil criteria are ostensibly neutral, in practice they are liable to disadvantage Traveller and migrant children.³²⁵ Accordingly, the UN Committee considers that schools should not be permitted to use such criteria, referencing the need to secure equal access to education for 'Roma and Traveller children, asylum-seeking, refugee and migrant children'.³²⁶

The 2018 Act also amended Section 7 ESA, so that primary schools can no longer use religion as a selection criterion, in most cases.³²⁷ This change in the law still allows schools of minority religions to give preference to a student who seeks admission to a school providing religious instruction or education consistent with their minority religious beliefs, but only where the school is oversubscribed. Prior to this reform, denominational schools were permitted to distinguish between prospective students on the basis of their religious background. They were also entitled to refuse admission to a child who was not of that denomination where it was essential to maintain the ethos of the school.³²⁸

In recent years, several NGOs raised concerns about the use of reduced timetables (reduced school days) in relation to vulnerable pupils, including children with disabilities, as well as Traveller and Roma children.³²⁹ The matter was considered by a parliamentary committee in 2019.³³⁰ Guidelines for schools came into effect on 1 January 2022.³³¹ The guidelines aim to ensure that this practice is limited to only those circumstances where it is absolutely necessary. Parental consent is required, and schools are obliged to notify a statutory agency, Tusla Education Support Service, when a reduced timetable is proposed. In collaboration with representative organisations, the Department of Education produced an explanatory video on the use of reduced school days aimed at Traveller parents.³³² Data published by that department reveals that Traveller, Roma and students with disabilities are significantly more likely to be placed on reduced school days across the primary and

³²⁴ UN Committee on the Rights of the Child (2023), *Concluding observations on the combined fifth and sixth periodic reports of Ireland*, 28 February 2023, [CRC/C/IRL/CO/5-6](https://www.unhcr.org/refugees/ireland/2023/02/28/crc-irl-co-5-6), Para. 37(a)(i). A parliamentary committee also recommended that the provision be deleted and the Government has undertaken to establish an expert review group to consider the matter further: <https://www.oireachtas.ie/en/debates/debate/dail/2022-05-19/42/>. At the time of writing, that undertaking had not been progressed.

³²⁵ Data suggests that migrant children are adversely affected by criteria that favour settlement in the area: Darmody, M., McGinnity, F. and Kingston, G. (2016), 'The experiences of migrant children in Ireland', in Williams, J., Nixon, E., Smyth, E. and Watson, D. (eds), *Cherishing all the children equally? Children in Ireland 100 years on from the Easter Rising*, Dublin, Economic and Social Research Institute, pp. 175–193, at p. 181, <https://www.esri.ie/pubs/CB201609.pdf>.

³²⁶ UN Committee on the Rights of the Child (2023), *Concluding observations on the combined fifth and sixth periodic reports of Ireland*, 28 February 2023, [CRC/C/IRL/CO/5-6](https://www.unhcr.org/refugees/ireland/2023/02/28/crc-irl-co-5-6), Para. 37(a). That recommendation was echoed by the UN Committee on the Elimination of Discrimination against Women in 2025: UN Committee on the Elimination of Discrimination against Women (2025), *Concluding observations on the eighth periodic report of Ireland*, 10 July 2025, [CEDAW/C/IRL/CO/8](https://www.unhcr.org/refugees/ireland/2025/07/10/cedaw-irl-co-8), Para. 36(d).

³²⁷ Section 11, Education (Admission to Schools) Act 2018.

³²⁸ The exemption was successfully invoked by a school in Equality Tribunal, *Ms A (on behalf of her son X, A Minor) v. A Secondary School*, DEC-S2014-010, 12 August 2014, <https://www.workplacerelations.ie/en/Cases/2014/August/DEC-S2014-010.html>. A secondary school could not avail of the exemption in a 2020 case because it was multi-denominational. It discriminated on the religion ground in giving preferential treatment in its admission policy to Church of Ireland students. The school was ordered to cease the discriminatory practice and to enrol the complainant, a Catholic: Workplace Relations Commission, *Student v. Community School*, ADJ-00027446, 19 November 2020, <https://www.workplacerelations.ie/en/cases/2020/november/adj-00027446.html>.

³²⁹ See generally, Children's Rights Alliance (2025), *Report card 2025*, pp. 65–83.

³³⁰ Houses of the Oireachtas, Joint Committee on Education and Skills (2019), *Interim report on the Committee's examination on the current use of reduced timetables*.

³³¹ Government of Ireland (2021), *Circular: 0047/2021, Guidelines for schools on recording and notification of the use of reduced school days*.

³³² The videos are accessible here: <https://www.gov.ie/en/department-of-education/publications/the-use-of-reduced-school-days/>.

secondary education system.³³³ The UN Committee on the Rights of the Child has called for the development of measures to address the ‘overuse’ of reduced timetables ‘with a view to preventing their disproportionate use on Traveller children and children with disabilities’.³³⁴

NGOs have long sought the commencement of the provisions in the Education for Persons with Special Educational Needs Act 2004 that provide for individual education plans and an appeals mechanism.³³⁵ In December 2021, the Government announced a review of the 2004 Act. The review was overseen by a steering group and an advisory group with stakeholder representation, as well as a working group comprising government officials and public servants.³³⁶ Its findings were published in June 2025.³³⁷ The report sets out 51 recommendations aimed at aligning the 2004 law with the obligations set under the UN Convention on the Rights of Persons with Disabilities. An implementation plan is due to be published in 2026.³³⁸

National data suggests that children with a disability, migrant and Traveller children are more likely to experience bullying in school.³³⁹ Research analysing the experiences of 9- and 13-year-olds within and outside the school environment suggests that adolescent children with a disability and those identified as ‘lesbian, gay, bisexual or questioning’ are also liable to experience higher levels of bullying.³⁴⁰ The *National Traveller and Roma Inclusion Strategy 2017–2021* contained commitments to review the effectiveness of anti-bullying guidelines and teacher education.³⁴¹ Those commitments were progressed in 2022, with the publication of an anti-bullying action plan.³⁴² Informed by a public consultation process, the plan sets out a range of measures to be undertaken by Government departments, public bodies and schools. In 2023, the Department published an implementation plan, which sets out 61 actions to be achieved over five years.³⁴³ Actions include the reform of teacher education to equip ‘teachers with the necessary knowledge and skills to effectively prevent and address bullying, racism, sexism and sexual harassment and to promote equality, diversity, inclusion and wellbeing.’³⁴⁴ The Department of Education published revised anti-bullying procedures for schools in June 2024, which have been applied from the beginning of the 2025/2026 school year.³⁴⁵ The procedures take account of racist bullying, including that directed at Traveller and Roma children, as well as gender identity bullying, cyberbullying, sexist bullying and sexual harassment. Under the procedures, schools are obliged to record, report and monitor bullying incidents; compliance is overseen via the school inspection process. The Department of Education and Youth will maintain a national database of such incidents, and it publishes an annual report on bullying in schools.³⁴⁶

³³³ Children’s Rights Alliance (2025), [Report card 2025](#), pp. 69–75.

³³⁴ UN Committee on the Rights of the Child (2023), *Concluding observations on the combined fifth and sixth periodic reports of Ireland*, 28 February 2023, CRC/C/IRL/CO/5-6, Para. 37(f).

³³⁵ Children’s Rights Alliance (2024), [Report card 2024](#), pp. 89–90.

³³⁶ See <https://www.gov.ie/en/department-of-education/consultations/epsen-review-consultation/>.

³³⁷ Department of Education and Youth (2025), [Review of The Education for Persons with Special Educational Needs \(EPSEN\) Act 2004](#).

³³⁸ Dáil Éireann Debate Education Policy, 28 January 2026, <https://www.oireachtas.ie/en/debates/question/2026-01-28/51/>.

³³⁹ Department of Children Equality, Disability, Integration, and Youth (2025), *State of the Nation’s Children: Ireland 2024*, Dublin, Government Publications, pp. 55–57.

³⁴⁰ Smyth, E. and Darmody, M. (2025), [Experience of bullying and bullying behaviours in childhood and adolescence](#), Dublin, Economic and Social Research Institute.

³⁴¹ Department of Justice and Equality (2017), *The National Traveller and Roma Inclusion Strategy 2017–2021*, p. 26.

³⁴² Department of Education (2022), [Cineáltas: Action Plan on Bullying](#).

³⁴³ Department of Education (2023), [Cineáltas: Action Plan on Bullying – Implementation Plan 2023–2027](#).

³⁴⁴ Department of Education (2022), *Cineáltas: Action Plan on Bullying*, p.30.

³⁴⁵ Department of Education (2024), [Bí Cineálta Procedures to Prevent and Address Bullying Behaviour for Primary and Post-Primary Schools](#). The Department of Education issued a circular in August 2024 advising schools of the requirement to adopt a new policy and procedures, and of the resources that will be put in place to support implementation: Department of Education (2024), [Circular Number 0055/2024](#).

³⁴⁶ See <https://www.gov.ie/en/department-of-education/publications/perspectives-on-bullying-behaviour-2024/>.

a) Trends and patterns regarding Roma pupils

In Ireland, limited data is available as to whether there are specific legal or societal trends and/or patterns in education regarding Roma pupils, such as segregation. The Department of Education's *Report and Recommendations for a Traveller Education Strategy* (2006)³⁴⁷ led to the desegregation of education for Traveller pupils.

There is no case law to date on discrimination against Roma pupils. Members of the Irish Traveller community have referred several cases against schools.³⁴⁸

Lower educational outcomes are attained by Traveller and Roma pupils relative to the general population.³⁴⁹ For instance, according to the 2022 Census, Roma youth have a transfer rate of 89 % from primary to post-primary education, which is lower than the general population transfer rate of 96 %, but higher than the transfer rate of the Traveller community of 83 %.³⁵⁰ Data published by the Department of Education in 2024 records that the lowest retention rates in education by ethnicity were Roma children at 58.9 % and Traveller children at 26.5 %.³⁵¹ The Delivering Equality of Opportunity in Schools (DEIS) Programme, overseen by the Department of Education and Youth, addresses concentrated educational disadvantage by providing additional resources at school level. While 27.5 % of pupils overall attended DEIS schools in 2022/2023, approximately 74 % of Traveller children attend DEIS primary and post-primary schools.³⁵²

These patterns are highlighted in the *Traveller and Roma Education Strategy 2024–2030* (TRES), which was published in 2024 along with an implementation plan for the first two years of the strategy.³⁵³ The strategy is built around four pillars, each of which has a corresponding set of actions, some of which are referenced below.

Training in intercultural education and racism is not compulsory for qualified teachers. There has been some progress in developing curriculum-linked resources that explore Traveller and Roma language and culture.³⁵⁴ In 2018, a private members' bill was introduced to the Irish Parliament that aims to formally include Traveller culture and history in the school curriculum.³⁵⁵ The bill reached Committee Stage before Dáil Éireann (the lower house of the Oireachtas) but lapsed with the dissolution of parliament in November 2024. In response to that initiative, the Minister for Education and Skills requested the National Council for Curriculum and Assessment (NCCA) to conduct an audit of Traveller culture and history in the current school curriculum. The audit, which incorporated consultation with Traveller representative groups, was published in 2019.³⁵⁶ Progressing that work is listed as an action for 2024–2026 under TRES: 'the NCCA will work with Traveller organisations to create lesson plans for schools on incorporating Traveller culture and history across the curriculum' (Action 1.5.2). A video was issued in 2025 that gives teachers advice on how to teach about Traveller culture and history. Further resources

³⁴⁷ See <https://www.into.ie/app/uploads/2019/07/TravellerEdStrategy2006.pdf>.

³⁴⁸ The most recent cases are: Workplace Relations Commission, *A Minor (next friend, Mother) v. Board of Management of a Co-Educational Post Primary School*, ADJ-00038804, 3 March 2025, <https://www.workplacerelations.ie/en/cases/2025/march/adj-00038804.html>; and *A Complainant on behalf of her son v. Board of Management of A Primary School*, ADJ-00008562, 23 May 2018, <https://www.workplacerelations.ie/en/Cases/2018/May/ADJ-00008562.html>.

³⁴⁹ OECD (2024), *Review of School Resourcing to Address Educational Disadvantage in Ireland*, pp. 69–71.

³⁵⁰ Department of Children, Equality, Disability, Integration, Youth (2025), *Statistical Spotlight #14: Roma in Ireland*.

³⁵¹ Department of Education (2024), *Retention Rates of Pupils in Second-Level Schools, Entry Cohort 2017*.

³⁵² OECD (2024), *Review of School Resourcing to Address Educational Disadvantage in Ireland*, pp. 69–71.

³⁵³ Government of Ireland (2024), *Traveller and Roma Education Strategy 2024–2030*; Government of Ireland (2024), *Traveller and Roma Education Strategy – Plan for Implementation and Action 2024–2026*.

³⁵⁴ Irish Human Rights and Equality Commission (2024), *Ireland and the International Covenant on Economic, Social and Cultural Rights: Submission to the Committee on Economic, Social and Cultural Rights on Ireland's fourth periodic report*, pp. 141–144.

³⁵⁵ Traveller Culture and History in Education Bill 2018, <https://www.oireachtas.ie/en/bills/bill/2018/71/>.

³⁵⁶ NCCA (2019), *Traveller culture and history in the curriculum: a curriculum audit*.

were under development at the time of writing.³⁵⁷ TRES also includes actions on updating the intercultural guidelines for schools and on developing and promoting the participation of teachers and school staff in targeted DEI and cultural awareness training.³⁵⁸ The new intercultural guidelines have been drafted and are due to be published in 2026.³⁵⁹ Researchers have long criticised the failure to address racism in school curricula.³⁶⁰ This omission is highlighted in the first annual report of the Special Rapporteur on Racial Equality and Racism.³⁶¹

3.2.8 Access to and supply of goods and services that are available to the public (Article 3(1)(h) Directive 2000/43)

In Ireland, national legislation prohibits discrimination in access to and the supply of goods and services, as formulated in the Racial Equality Directive.

Section 5(1) ESA provides:

‘A person shall not discriminate in disposing of goods to the public generally or a section of the public or in providing a service, whether the disposal or provision is for consideration or otherwise and whether the service provided can be availed of only by a section of the public.’

The discriminatory grounds are those of gender, age, race, religion, family status, disability, civil status, sexual orientation and membership of the Traveller community (Section 3(2) ESA). Gender identity/expression or sex characteristics are not expressly covered under ESA. However, the gender ground has been interpreted as including discrimination against persons who intend to, are undergoing or have undergone ‘gender reassignment’.³⁶² WRC decisions have also confirmed that non-binary persons may invoke that ground to challenge discrimination based on their gender identity.³⁶³ Absent any case law, it is unclear whether ESA affords protection from discrimination concerning sex characteristics.

‘Goods’ are defined in Section 2(1) as ‘any articles of movable property’ (i.e. property apart from land) and this definition has not been contentious in the case law to date.

Section 2(1) defines ‘service’ as ‘a service or facility of any nature which is available to the public generally or a section of the public, and without prejudice to the generality of the foregoing, includes:

- (a) access to and the use of any place,
- (b) facilities for:
 - (i) banking, insurance, grants, loans, credit or financing,

³⁵⁷ Government of Ireland (2025), [Traveller and Roma Education Strategy Second Progress Report: July 2025](#).

³⁵⁸ As discussed in Section 9.2 of this report, Traveller and Roma representative organisations play a role in monitoring implementation of these actions.

³⁵⁹ Government of Ireland (2025), [Traveller and Roma Education Strategy Third Progress Report: December 2025](#).

³⁶⁰ See, for example, Moloney, C. and O’Toole, B. (2018), “‘Windows and mirrors’ or “closed doors”? Representations of diversity in early years textbooks’, *Irish Teachers’ Journal* 6(1), pp. 55-72, <https://www.into.ie/app/uploads/2019/07/IrishTeachersJournal2018.pdf>; Ní Dhuinn, M., and Keane, E. (2021), “‘But you don’t look Irish”: identity constructions of minority ethnic students as “non-Irish” and deficient learners at school in Ireland’, *International studies in sociology of education*, pp. 1-30.

³⁶¹ Joseph, E. (2025), [Annual report of the Special Rapporteur on Racial Equality and Racism, Ireland](#), p. 37.

³⁶² The first such case under ESA was Equality Tribunal, *O’Byrne v. AIB*, DEC-S2013-015, 2 December 2013, <https://www.workplacerelations.ie/en/cases/2013/december/dec-s2013-015.html>. For a recent example, see Workplace Relations Commission, *A Volunteer v. A Voluntary Organisation*, ADJ-00054798, 28 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/adj-00054798.html>.

³⁶³ The first such case is *Customer Service Advisor v. Financial Services Provider*, ADJ-00012014, 30 October 2018, <https://www.workplacerelations.ie/en/cases/2018/october/adj-00012014.html>. While that and subsequent cases were EEA complaints, it is to be expected that the same approach will be adopted under ESA.

- (ii) entertainment, recreation or refreshment,
- (iii) cultural activities, or
- (iv) transport or travel,
- (c) a service or facility provided by a club (whether or not it is a club holding a certificate of registration under the Registration of Clubs Acts, 1904 to 1999) which is available to the public generally or a section of the public, whether on payment or without payment, and
- (d) a professional or trade service, but does not include pension rights (within the meaning of the Employment Equality Act 1998) or a service or facility in relation to which that Act applies.'

The services listed above are not exhaustive and case law has established that the definition covers, inter alia, maintenance grants payable to students,³⁶⁴ visits of family members to prisons³⁶⁵ and the conduct of quasi-judicial proceedings.³⁶⁶

Failure to adapt the provision of goods or services to meet the needs of a person with a disability is a form of discrimination.³⁶⁷

a) Distinction between goods and services available publicly or privately

In Ireland, national law does not distinguish between goods and services that are available to the public (e.g. in shops, restaurants and banks) and those that are only available privately (e.g. those restricted to members of a private association).

The discrimination prohibition applies where goods or services are supplied to 'the public generally' or to 'a section of the public'.³⁶⁸ Case law has established that members of private associations, such as trade unions,³⁶⁹ clubs,³⁷⁰ voluntary organisations,³⁷¹ and political parties,³⁷² constitute a 'section of the public' for the purposes of ESA.

However, distinct provisions govern registered clubs, which are bodies that have applied for or hold a certificate of registration under the Registration of Clubs Acts 1904–1999.³⁷³ Registration enables clubs to sell alcohol to members and certain visitors. Clubs that do not hold a liquor licence are governed instead by the general prohibition on discrimination set out under Section 5 ESA. Sections 8 to 10 ESA apply exclusively to registered clubs. These provisions only relate to matters concerning membership of clubs and cases must be taken before the District Court.³⁷⁴ Clubs which have the principal purpose of catering for the needs of persons who are members of the Traveller community or people of a

³⁶⁴ Equality Tribunal, *Two Complainants v. Department of Education and Science*, DEC-S2003-042/043, 28 May 2003, https://www.workplacerelations.ie/en/cases/2003/may/dec-s2003-042-043_full_case_report.html.

³⁶⁵ Workplace Relations Commission, *A Complainant on behalf of his son v. Irish Prison Service*, DEC-S2018-010, 19 April 2018, <https://www.workplacerelations.ie/en/Cases/2018/March/DEC-S2018-010.html>.

³⁶⁶ Case law on which aspects of quasi-judicial proceedings are covered is not clear, however. See, for example, Workplace Relations Commission, *McDevitt v. The Labour Relations Commission, now the Workplace Relations Commission*, DEC-S2018-030, 12 December 2018, <https://www.workplacerelations.ie/en/cases/2018/december/decs2018030.html>; *A Legal Representative v. Chairman of a Division of the Labour Court*, ADJ-00042833, 7 July 2023, <https://www.workplacerelations.ie/en/cases/2023/july/adj-00042833.html>.

³⁶⁷ Section 4, ESA.

³⁶⁸ Section 5(1) and Section 2(1), ESA.

³⁶⁹ See, for example, Workplace Relations Commission, *A Civil Servant v. A Trade Union*, ADJ-00019795, 16 August 2019, <https://www.workplacerelations.ie/en/cases/2019/august/adj-00019795.html>.

³⁷⁰ See, for example, Workplace Relations Commission, *A Men's Shed Member v. A Men's Shed*, ADJ-00006688, 30 January 2018, <https://www.workplacerelations.ie/en/cases/2018/january/adj-00006688.html>.

³⁷¹ Workplace Relations Commission, *A Volunteer v. A Voluntary Organisation*, ADJ-00054798, 28 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/adj-00054798.html>.

³⁷² Equality Tribunal, *Egan v. Young Fine Gael*, DEC-S2011-001, 5 January 2011, <https://www.workplacerelations.ie/en/cases/2011/january/dec-s2011-001-full-case-report.html>.

³⁷³ Registration of Clubs (Ireland) Act 1904, 15 August 1904, <http://www.irishstatutebook.ie/eli/1904/act/9/enacted/en/print.html>.

³⁷⁴ Applied in Workplace Relations Commission, *A Member v. A Golf Club*, ADJ-00010091, 9 August 2018, <https://www.workplacerelations.ie/en/cases/2018/august/adj-00010091.html>.

particular gender, sexual orientation, religious belief (or persons of no religious belief), family status, civil status, age, disability or nationality or ethnic or national origin can restrict membership to people from those groups (Section 9). The 'race' and 'colour' aspects of the race ground are not exempt. Further, the Traveller community exception is asymmetrical.

It remains to be seen whether these provisions comply with the Racial Equality Directive. Recital 17 envisages the establishment of 'organisations of persons of a particular racial or ethnic origin where their main object is the promotion of the special needs of those persons' as positive action measures. However, the Irish Superior Courts have not taken account of disadvantage or substantive equality of opportunity principles in construing relevant provisions of ESA. The High Court interpreted Section 9 of that Act as permitting male-only membership of golf clubs, holding that the principal purpose of such clubs is to cater for the needs of men.³⁷⁵ The Supreme Court upheld the decision on 4 November 2009.³⁷⁶

3.2.9 Housing (Article 3(1)(h) Directive 2000/43)

In Ireland, national legislation prohibits discrimination in the area of housing as formulated in the Racial Equality Directive.

Section 6(1) ESA prohibits discrimination in disposing of any estate or interest in premises, in terminating any tenancy or other interest in premises, or in the provision of accommodation and related services and amenities. The grounds of gender, age, race, religion, family status, disability, civil status, sexual orientation and membership of the Traveller community are covered (Section 3(2) ESA). Gender identity/ expression or sex characteristics are not expressly included under ESA. However, the gender ground has been interpreted as including discrimination against persons who intend to, are undergoing or have undergone 'gender reassignment'.³⁷⁷ WRC decisions have also confirmed that non-binary persons may invoke that ground to challenge discrimination based on their gender identity.³⁷⁸ Absent any case law, it is unclear whether ESA affords protection from discrimination concerning sex characteristics.

The Equality (Miscellaneous Provisions) Act 2015 introduced 'housing assistance' as a new ground to protect against discrimination in the accommodation context.³⁷⁹ As of 1 January 2016, people in receipt of housing assistance, rent supplement or other social welfare payments cannot be discriminated against in relation to the provision of accommodation and related services and amenities. Over the past eight years, cases concerning private sector housing have been referred almost exclusively on the housing assistance ground. No race-ground complaints were upheld in 2025. For example, the WRC found that a landlord's request to pay a holding rent pending the approval of a social security payment was not related to the complainant's Romanian nationality or the housing assistance ground.³⁸⁰ A complaint on the race, gender and housing assistance grounds was dismissed for failure to comply with the notification requirement (that requirement is discussed in

³⁷⁵ High Court, *Equality Authority v. Portmarnock Golf Club* [2005] IEHC 235, 10 June 2005.

³⁷⁶ Supreme Court, *Equality Authority v. Portmarnock Golf Club* [2009] IESC 73, 4 November 2009.

³⁷⁷ The first such case under ESA was Equality Tribunal, *O'Byrne v. AIB*, DEC-S2013-015, 2 December 2013, <https://www.workplacerelations.ie/en/cases/2013/december/dec-s2013-015.html>.

³⁷⁸ The first such case is *Customer Service Advisor v. Financial Services Provider*, ADJ-00012014, 30 October 2018, <https://www.workplacerelations.ie/en/cases/2018/october/adj-00012014.html>. While that and subsequent cases were EEA complaints, it is to be expected that the same approach will be adopted under ESA.

³⁷⁹ See <http://www.irishstatutebook.ie/eli/2015/act/43/enacted/en/print.html>.

³⁸⁰ Workplace Relations Commission, *Covaci v. O'Connor*, ADJ-00053537, 18 February 2025, <https://www.workplacerelations.ie/en/cases/2025/february/adj-00053537.html>. See also: Workplace Relations Commission, *Artemjeva v. Midlands Properties Limited*, ADJ-00047490, 15 May 2025, <https://www.workplacerelations.ie/en/cases/2025/may/adj-00047490.html>; *Korolova v. Midlands Properties Limited*, ADJ-00051775, 15 May 2025, <https://www.workplacerelations.ie/en/cases/2025/may/adj-00051775.html>.

Section 6.1(b)).³⁸¹

A few complaints on the Traveller community ground have been referred against private landlords and estate agents since the enactment of ESA.³⁸² However, the bulk of cases on that ground pertain to public housing authorities. A significant number of interrelated cases was determined in 2025. All the complaints were dismissed, because the WRC found that the respondent was not engaged in the provision of services to the complainants, who were occupying public land without the respondent local authority's permission. Attempts to challenge putative discriminatory treatment enshrined in law have failed because of the Section 14(1)(a)(i) exemption (discussed in Section 3.2.5).³⁸³

Several exceptions apply to the prohibition of discrimination in the area of housing.

For example, the prohibition of discrimination does not apply to accommodation that is provided in a person's home 'or where the provision of accommodation affects the person's private or family life or that of any other person residing in the home'.³⁸⁴

Section 6(5) permits the reservation of housing for use by particular categories of people, for example a home for persons with disabilities or a retirement or nursing home for older people.

Housing authorities may treat people differently in respect of accommodation on the basis of their family size, family status, civil status, disability, age or membership of the Traveller community, in accordance with Section 6(6) ESA. The Circuit Court has clarified that this exception cannot result in less favourable treatment in the provision of housing.³⁸⁵

Section 6(7) allows the Minister to apply differential treatment in housing provision to persons on the basis of their nationality, gender, family size, family status, civil status, disability, age or membership of the Traveller community.³⁸⁶ Any such difference in treatment is not permitted to amount to a derogation from the obligations of the State under EU law. There has been no case law on the provision to date.

Data on the experience of perceived discrimination derived from representative surveys spanning 2004 to 2024 suggests that black people are a high-risk group for encountering discriminatory practices in accessing accommodation.³⁸⁷ A field experiment conducted in 2018 also uncovered evidence of ethnic discrimination in the private rental housing

³⁸¹ Workplace Relations Commission, *Bastos v. Dilloughery*, ADJ-00049910, 3 March 2025, <https://www.workplacerelations.ie/en/cases/2025/march/adj-00049910.html>.

³⁸² See, for example, Equality Tribunal, *Cash v. Murphy Property & Finance Ltd.*, DEC-S2011-031, 29 September 2011, <https://www.workplacerelations.ie/en/cases/2011/july/dec-s2011-031-full-case-report.html>; Equality Tribunal, *Carthy v. Brennan*, DEC-S2011-045, 24 October 2011, <https://www.workplacerelations.ie/en/cases/2011/october/dec-s2011-045-full-case-report.html>; Equality Tribunal, *Maughan v. Grattan Lodge Management Company*, DEC-S2012-015, 3 May 2012, <https://www.workplacerelations.ie/en/cases/2012/may/dec-s2012-015-full-case-report.html>.

³⁸³ Workplace Relations Commission, *O'Donoghue v. Clare County Council*, DEC-S2018-002, 27 February 2018, <https://www.workplacerelations.ie/en/cases/2018/february/dec-s2018-002.html>; *A Member of the Travelling Community v. A County Council*, ADJ-00008050, 26 April 2018, <https://www.workplacerelations.ie/en/cases/2018/april/adj-00008050.html>.

³⁸⁴ Section 6(2)(d) ESA. The first cases to consider that exemption were heard in 2018: Workplace Relations Commission, *Bushe v. Jarvis*, ADJ-00014453, 6 September 2018, <https://www.workplacerelations.ie/en/Cases/2018/September/ADJ-00014453.html> (since the respondent was seeking to rent a room in his home, the WRC did not have jurisdiction to hear the discrimination complaint in accordance with Section 6(2)(d)); *A Tenant v. A Landlord*, ADJ-00015004, 5 December 2018, <https://www.workplacerelations.ie/en/cases/2018/december/adj-00015004.html> (the rental unit was self-contained and therefore the exemption was inapplicable).

³⁸⁵ Circuit Court Dublin, *Dublin City Council v. Deans* (Hunt J., unreported, 15 April 2008), at p. 29.

³⁸⁶ No reference is made in this section to the grounds of race or sexual orientation.

³⁸⁷ Grotti, R., Russell, H., Fahey, E. and Maître, B. (2018), *Discrimination and Inequality in Housing in Ireland*; <https://www.cso.ie/en/releasesandpublications/ep/p-ed/equalityanddiscrimination2024/housing/>.

market.³⁸⁸ It employed fictitious applications to view properties advertised online. 40 % of Irish applicants were invited to a viewing, 35 % of Polish applicants and just 25 % of Nigerian applicants.

a) Trends and patterns regarding housing segregation for Roma

In Ireland, there is limited data concerning trends and/or patterns of housing segregation and discrimination against the Roma.

A *National Roma Needs Assessment*, commissioned by the Department of Justice and Equality, was published in 2018.³⁸⁹ Approximately 20 % of the Irish Roma community were 'completely marginalised from services and supports. They were living in extreme poverty, in sub-standard accommodation', and 60 % of respondents reported experiences of consistent poverty, including not always having enough fuel, food or heat. Furthermore, 93 % of respondents reported experiencing discrimination in accessing housing. The FRA's *Roma Survey 2024* included Roma living in Ireland for the first time.³⁹⁰ In the survey, 34 % of respondents reported that they were in housing deprivation and they reported an extremely high incidence of overcrowding, at 92 %. In addition, 60 % of the respondents had encountered discrimination when looking for housing in the previous five years.

According to a report published in 2018, Travellers experienced the highest levels of discrimination in access to housing. They were almost 10 times as likely to report discrimination as the white Irish population.³⁹¹ Research published by a Traveller rights organisation suggests that 39 % of Travellers meet the European definition of homelessness (compared with 6 % of the general population), including the large number of Travellers who are experiencing 'hidden homelessness' in overcrowded living conditions.³⁹² The 2024 FRA survey records that 42 % of Travellers live in housing deprivation, with 63 % living in overcrowded conditions, while 74 % of the community felt discriminated against when looking for housing.³⁹³

The findings of a small-scale study on *Experiences of Travellers in the private rented sector*, published in 2017, suggest that Travellers experienced discrimination at the hands of landlords and settled neighbours.³⁹⁴ Landlords believed that discrimination had diminished in recent years due to compliance with legislation. However, a 2014 survey conducted on behalf of the Residential Tenancies Board, based on 400 telephone interviews conducted with landlords, found that 82 % of those landlords who responded were unwilling to rent property to members of the Travelling community.³⁹⁵

The European Committee of Social Rights upheld a complaint against Ireland in 2015, finding that a shortfall in sufficient accommodation for Travellers, as well as inadequate site conditions, violated Article 16 of the European Social Charter.³⁹⁶ Underlying factors include a disinvestment in Traveller accommodation since 2008, coupled with the failure of local authorities to access available funds. The Housing (Traveller Accommodation) Act

³⁸⁸ Gusciute, E., Muhlau, P. and Layte, R. (2022), 'Discrimination in the rental housing market: a field experiment in Ireland', *Journal of Ethnic and Migration Studies* 48(3), 613–634.

³⁸⁹ Pavee Point and Department of Justice and Equality (2018), *Roma in Ireland: A National Needs Assessment*, Dublin, Pavee Point.

³⁹⁰ EU Fundamental Rights Agency (FRA) (2025), *Rights of Roma and Travellers in 13 European countries – Perspectives from the Roma Survey 2024*, Vienna, FRA.

³⁹¹ Grotti, R., Russell, H., Fahey, E. and Maître, B. (2018), *Discrimination and inequality in housing in Ireland*.

³⁹² Pavee Point (2025), *Submission to the Department of Social Protection's Public Consultation on the Successor to the Roadmap for Social Inclusion 2020–25*.

³⁹³ EU Fundamental Rights Agency (FRA) (2025), *Rights of Roma and Travellers in 13 European countries – Perspectives from the Roma Survey 2024*, Vienna, FRA.

³⁹⁴ RSM PACEC Ltd. (2017), *Experiences of Travellers in the private rented sector*, Dublin, Housing Agency.

³⁹⁵ DKM Consultants (2014), *Private rented sector survey findings: Tenants, landlords & estate agents*, Dublin, DKM.

³⁹⁶ European Committee of Social Rights (2016), *European Roma Rights Centre (ERRC) v. Ireland*, *Complaint No. 100/2013*.

1998 obliges each local authority to prepare, adopt and implement a five-year rolling accommodation programme to meet the existing and projected accommodation needs of Travellers in their areas.³⁹⁷ Between 2008 and 2018, just 66 % of the capital budget allocated by the Government was drawn down by local authorities.³⁹⁸ In its 2019 report, the European Commission against Racism and Intolerance (ECRI) stated that it was 'shocked' that this pattern of underspending continues 'while many Travellers continue to live in squalor and deprivation'.³⁹⁹ It recommended that Ireland impose sanctions on local authorities for failure to spend funding or transfer responsibility to a central housing commission.

The national budget for 2025 allocated EUR 23 million to Traveller-specific accommodation.⁴⁰⁰ All of the funding was accessed by local authorities from 2020 to 2024, in a break from the pattern for previous years (data for 2025 was not available at the time of writing).⁴⁰¹ Instead of being allocated a fixed budget, the authorities now draw down funds on a case-by-case basis from the general allocation. However, in a 2022 follow-up report, ECRI concluded that its recommendation on Traveller accommodation had not yet been implemented.⁴⁰² ECRI noted that there had been 'no major improvement in the accommodation conditions of Travellers'. Citing the equality reviews conducted by the IHREC (see Section 7.6(e)), it found that 'little has been done to address the structural shortcomings in the identification of the housing needs of Travellers and to ensure greater accountability in the use of the Traveller accommodation funds'. According to the Irish Traveller Movement, funds have been spent for the most part on refurbishment, with just 44 new Traveller-specific accommodation units built from 2019 to 2021, while 2 871 Traveller families needed accommodation.⁴⁰³ ECRI was also critical of delays in implementing the recommendations of an expert group, which are outlined below.

An expert group was established in 2018 to conduct a review of the 1998 Act, following a commitment set out under the *National Traveller and Roma Inclusion Strategy 2017–2021*.⁴⁰⁴ Its report was published in July 2019 and sets out 32 recommendations, including proposals aimed at addressing the collection of data on and systems for identifying accommodation needs, the planning system, resources and delivery capacity, and governance arrangements.⁴⁰⁵ It identifies a need for active and ongoing monitoring of the planning and provision of Traveller accommodation and intervention when these functions are not being adequately performed. To that end, it recommends that the National Traveller Accommodation Consultative Committee (NTACC) be equipped with additional powers and resources and be retitled as the National Traveller Accommodation Authority. The report further calls for reform of the law on trespass and evictions, referencing violations of the European Social Charter.⁴⁰⁶

³⁹⁷ Ireland, Housing (Traveller Accommodation) Act 1998, 13 July 1998, <http://www.irishstatutebook.ie/eli/1998/act/33/enacted/en/html>.

³⁹⁸ Joyce, D., Norton, C. and Norris, M. (2019), *Traveller accommodation expert review*, p. 38.

³⁹⁹ European Commission against Racism and Intolerance (2019), *ECRI report on Ireland (fifth monitoring cycle)* CRI(2019)18, Para. 67.

⁴⁰⁰ Dáil Éireann Debate Traveller Accommodation, 10 December 2025, <https://www.oireachtas.ie/en/debates/question/2025-12-10/229/>.

⁴⁰¹ Dáil Éireann Debate Traveller Accommodation, 10 December 2025, <https://www.oireachtas.ie/en/debates/question/2025-12-10/229/>.

⁴⁰² European Commission against Racism and Intolerance (2022), *ECRI conclusions on the implementation of the recommendations in respect of Ireland subject to interim follow-up*, CRI(2022)02.

⁴⁰³ Irish Traveller Movement (2023), *Comments on the fifth periodic report to the Framework Convention on National Minorities*.

⁴⁰⁴ Department of Justice and Equality (2017), *The National Traveller and Roma Inclusion Strategy 2017–2021*, p. 41.

⁴⁰⁵ Joyce, D., Norton, C. and Norris, M. (2019), *Traveller accommodation expert review*.

⁴⁰⁶ European Committee of Social Rights (2016), *European Roma Rights Centre (ERRC) v. Ireland*, Complaint No. 100/2013. In 2016, the UN Committee on the Rights of the Child called for the amendment or repeal of legislation that criminalises nomadism: UN Committee on the Rights of the Child (2016), *Concluding observations on the combined third and fourth periodic reports of Ireland*, 29 January 2016, CRC/C/IRL/CO/3-4, Para. 17.

The Department of Housing, Planning and Local Government established a Programme Board to oversee implementation of the Expert Review Group's proposals in 2021. The Programme Board selected 28 of the Expert Review Group's 32 recommendations for inclusion in the ongoing work programme. It published one update in November 2025.⁴⁰⁷ Like the previous update, it records that 14 of the 28 recommendations had been completed.

In 2024, the European Committee of Social Rights found that Ireland has not yet remedied violations of Article 16 of the European Social Charter.⁴⁰⁸ The Committee took note of the measures outlined above but considered that the state had not provided 'any evidence of tangible and meaningful improvements as regards the provision of accommodation for Travellers or living conditions on halting sites.' It found that crucial recommendations of the Expert Review Group had yet to be implemented and noted that the impugned laws on trespass and evictions remained in place.

There is no Irish case law to date on the use of artificial intelligence and/or automated systems.

⁴⁰⁷ Government of Ireland (2025), [Traveller Accommodation Expert Review – Programme Board Update November 2025](#).

⁴⁰⁸ European Committee of Social Rights (2024), *Follow-up to Decisions on the Merits of Collective Complaints: Findings 2023*, <https://rm.coe.int/findings-2023-en/1680aef57f>.

4 EXCEPTIONS

4.1 Genuine and determining occupational requirements (Article 4 Directive 2000/43, Article 4(1) Directive 2000/78)

In Ireland, national legislation provides for an exception for genuine and determining occupational requirements.

Under Section 37(2) EEA:

'[A] difference of treatment which is based on a characteristic related to any of the discriminatory grounds... shall not constitute discrimination where, by reason of the particular occupational activities concerned or of the context in which they are carried out -

(a) the characteristic constitutes a genuine and determining occupational requirement, and

(b) the objective is legitimate, and the requirement proportionate.'

To date, this provision has been considered in only a limited number of cases, and so its ambit is as yet unclear.⁴⁰⁹ In a case concerning access to employment, the Equality Tribunal found that meeting a prescribed hearing standard could constitute a genuine and determining occupational requirement for bus drivers. However, the standard set by the respondent was particularly onerous and was not applied internationally. Moreover, compliance with that standard was not monitored in relation to its existing workforce, so the respondent could not demonstrate that the requirement was objectively justified.⁴¹⁰

The respondent in a 2022 case was entitled to avail of the Section 37(2) exception in declining to employ a 70-year-old when public health restrictions associated with the COVID-19 pandemic were in place.⁴¹¹ The WRC found that age was an occupational requirement in circumstances where public health guidelines identified people in the complainant's age group as 'high risk' and advised them to cocoon. In another 2022 case, the WRC concluded that a decision not to recruit an individual with generalised anxiety fell within the exception provided for under Section 37(2). The role in question was a safety-critical one and the respondent had undertaken an appropriate assessment of the risks involved in hiring the complainant.⁴¹²

The Defence Forces sought to avail of Section 37(2) in a 2023 case concerning the appointment criteria for the role of military chaplain. The WRC found that being a priest or minister is not a 'determining occupational requirement' for that post in upholding a discrimination complaint referred by a person with no religious beliefs.⁴¹³ The exception was also considered in two appeals against findings that a maximum recruitment age for the police force was discriminatory.⁴¹⁴ The Labour Court upheld the WRC decisions, since

⁴⁰⁹ A parallel provision that applies to the gender ground only, Section 25 EEA, has been applied in several cases. See, for example, Equality Tribunal, *A Prospective Employee v. A Company*, DEC-E2015-101, 7 October 2015, <https://www.workplacerelations.ie/en/Cases/2015/October/DEC-E2015-101.html>.

⁴¹⁰ Equality Tribunal, *Corbett v. Bus Eireann*, DEC-E2011-184, 26 September 2011, <https://www.workplacerelations.ie/en/cases/2011/september/dec-e2011-184-full-case-report.html>.

⁴¹¹ Workplace Relations Commission, *Hyde v. CPL Healthcare Limited*, ADJ-00033891, 7 June 2022, <https://www.workplacerelations.ie/en/cases/2022/june/adj-00033891.html>. See also *Matthews v. CPL Healthcare*, ADJ-00032489, 30 June 2022, <https://www.workplacerelations.ie/en/cases/2022/june/adj-00032489.html>.

⁴¹² Workplace Relations Commission, *Morris v. Iarnrod Eireann*, ADJ-00027184, 16 September 2022, <https://www.workplacerelations.ie/en/cases/2022/september/adj-00027184.html>.

⁴¹³ Workplace Relations Commission, *Hamill v. Department of Defence*, ADJ-00031432, 1 March 2023, <https://www.workplacerelations.ie/en/cases/2023/march/adj-00031432.html>.

⁴¹⁴ Labour Court, *Commissioner of An Garda Síochána and The Minister for Justice Equality and Law Reform v. Boyle*, EDA234, 25 January 2023, <https://www.workplacerelations.ie/en/cases/2023/february/eda234.html>; *Commissioner of An Garda Síochána and The Minister for Justice Equality and Law Reform v. Fitzpatrick*, EDA233, 25 January 2023, <https://www.workplacerelations.ie/en/cases/2023/february/eda233.html>.

the respondent failed to establish that the characteristic of possession of a high level of fitness is inevitably related to a particular age.

The exception has also featured in age-ground case law concerning compulsory retirement, although the decisions largely rested on analyses of the provision that permits employers to set retirement ages (Section 34(4) EEA). The main precedent is *Saunders v. CHC Ireland Ltd.*, in which a retirement age of 55 for a category of emergency services personnel (helicopter winch operators) was justified under Section 37(2) and Section 34(4).⁴¹⁵ Applying the *Wolf* judgment, the adjudicator accepted that the possession of a high physical capacity was a genuine and determining occupational requirement for the role and that this standard of capacity diminishes with age.⁴¹⁶

Under Section 5(2)(i) ESA, the prohibition of discrimination in disposing of goods or in providing a service does not apply in the case of 'differences in the treatment of persons on the gender, age or disability ground or on the ground of race, reasonably required for reasons of authenticity, aesthetics, tradition or custom in connection with a dramatic performance or other entertainment'. To date there is no case law on this exception. It would presumably allow the selection of a person of a particular ethnicity, for example, to play a role where being of that ethnicity was reasonably required.

4.2 Employers with an ethos based on religion or belief (Article 4(2) Directive 2000/78)

In Ireland, national law provides for an exception for employers with an ethos based on religion or belief. It provides for both an occupational requirement and a duty of good faith and loyalty.

Section 37(1) EEA provides:

'Subject to *subsections (1A) and (1B)*, a religious, educational or medical institution which is under the direction or control of a body established for religious purposes or whose objectives include the provision of services in an environment which promotes certain religious values shall not be taken to discriminate against a person... if—
(a) it gives more favourable treatment, on the religion ground, to an employee or a prospective employee over that person where it is reasonable to do so in order to maintain the religious ethos of the institution, or
(b) it takes action which is reasonably necessary to prevent an employee or a prospective employee from undermining the religious ethos of the institution.'⁴¹⁷

Further subsections ensure that state-funded entities may only avail of the exception in circumstances that cohere with Article 4(2) Directive 2000/78/EC:

'(1A) Where an educational or medical institution referred to in *subsection (1)* is maintained, in whole or in part, by monies provided by the Oireachtas more favourable treatment on the religion ground referred to in *paragraph (a)* of that subsection shall be taken to be discrimination unless —

⁴¹⁵ Equality Tribunal, DEC-E2011-142, 19 July 2011, <https://www.workplacerelations.ie/en/Cases/2011/July/DEC-E2011-142-Full-Case-Report.html>. See also Equality Tribunal, *McPhillips v. Monaghan County Council*, DEC-E2011-257, 22 November 2011, <https://www.workplacerelations.ie/en/Cases/2011/December/DEC-E2011-257-Full-Case-Report.html>; Labour Court, *Transdev Light Rail Limited v. Chrzanowski*, EDA1632, 29 November 2016, <https://www.workplacerelations.ie/en/Cases/2016/November/EDA1632.html>; Workplace Relations Commission, *A Worker v. A Healthcare Provider*, ADJ-00003418, 20 January 2017, <https://www.workplacerelations.ie/en/Cases/2017/January/ADJ-00003418.html>.

⁴¹⁶ European Court of Justice, C-229/08, *Wolf v. Stadt Frankfurt Am Main*, judgment of 12 January 2010, <http://curia.europa.eu/juris/liste.jsf?num=C-229/08>.

⁴¹⁷ See <http://revisedacts.lawreform.ie/eli/1998/act/21/revised/en/html#SEC37>. See also Workplace Relations Commission, *Hogan v. The Young Women's Christian Association*, DEC-E2015-151, December 2015, <https://www.workplacerelations.ie/en/cases/2015/december/dec-e2015-151.html>.

(a) that treatment does not constitute discrimination on any of the other discriminatory grounds, and

(b) by reason of the nature of the institution's activities or the context in which the activities are being carried out, the religion or belief of the employee or prospective employee constitutes a genuine, legitimate and justified occupational requirement having regard to the institution's ethos.

(1B) Where an educational or medical institution referred to *subsection (1)* is maintained, in whole or in part, by monies provided by the Oireachtas, action of the type referred to in *paragraph (b)* of that subsection shall be taken to be discrimination unless by reason of the nature of the employment concerned or the context in which it is carried out –

(a) the action is objectively justified by the institution's aim of preventing the undermining of the religious ethos of the institution, and

(b) the means of achieving that aim are appropriate and necessary.

(1C) An action referred to in *subsection (1B)* shall not be objectively justified in accordance with *paragraph (a)* of that subsection, or appropriate and necessary in accordance with *paragraph (b)* of that subsection, unless the action of the institution is –

(a) rationally and strictly related to the institution's religious ethos,

(b) a response to conduct of the employee or prospective employee undermining the religious ethos of the institution rather than a response to that employee's, or prospective employee's, gender, civil status, family status, sexual orientation, age, disability, race or membership of the Traveller community, and

(c) proportionate to the conduct of the employee or prospective employee, as the case may be, having due regard to –

(i) any other action the employer may take in the circumstances,

(ii) the consequences of that action for that employee or prospective employee,

(iii) the employee's or prospective employee's right to privacy, and

(iv) the actual damage caused to the religious ethos of the institution by the conduct of that employee or prospective employee.'

The exception was inserted by the Equality (Miscellaneous Provisions) Act 2015, which came into force on 1 January 2016 and has yet to be considered in case law. It replaced a provision that did not appear to comply with Article 4(2) since, *inter alia*, there was no requirement that differential treatment should be 'legitimate' or 'proportionate', nor did it explicitly provide that the exception could not be used to justify discrimination on another ground.

The previous provision, although never fully tested in legal proceedings,⁴¹⁸ was controversial at the national level. Teachers' unions opposed the exemption from the outset arguing, in particular, that it would impact on lesbian, gay and bisexual staff.⁴¹⁹ Those concerns were reinforced by a small-scale research study, which found that the exemption caused considerable anxiety on the part of such teachers and affected their ability to 'come out' at work.⁴²⁰ The Equality Authority and the Irish Human Rights Commission had also called for its amendment.⁴²¹

4.3 Armed forces and other specific occupations (Article 3(4) and Recitals 18 and 19, Directive 2000/78)

⁴¹⁸ See further, European Commission, Directorate-General for Justice and Consumers, O'Farrell, O., Walsh, J. (2018), *Country report: non-discrimination: Ireland 2018*, Publications Office, p. 69.

⁴¹⁹ See, for example, various submissions of the Irish National Teachers' Organisation: <https://www.into.ie/about/our-structure/associated-groups/into-lgbt-teachers-group/>.

⁴²⁰ Walsh, J., Conlon, C., Fitzpatrick, B. and Hanson, U. (2007), *Enabling lesbian, gay and bisexual individuals to access their rights under equality law*, Dublin, Equality Authority, pp. 61–63.

⁴²¹ See, for example, IHREC (2014), *IHREC Designate Report on Ireland's 4th Periodic Review by the UN Human Rights Committee on the ICCPR*.

In Ireland, national legislation provides for an exception for the armed forces in relation to age or disability discrimination (Article 3(4), Directive 2000/78/EC).

Section 37(5) EEA provides that the prohibition of discrimination on the age and disability grounds does not apply in relation to employment in the Defence Forces.⁴²²

In Ireland, national legislation provides for a definition of 'armed forces'.⁴²³

This definition does apply to the above-mentioned exception.

In Ireland, the scope of the exception is not limited to safeguarding the combat effectiveness of the armed forces. The scope of the exception extends to other non-combat staff, such as civilians employed in administrative positions in the army.⁴²⁴

The exception was applied in a 2021 case.⁴²⁵ The complainant's application for the role of radio and radar technician in the Irish Naval Service was not processed because an upper age limit of 27 years applied, and the complainant was 47 years old. The WRC found that Section 37(5) afforded the respondent a 'complete exemption' from the prohibition of age discrimination.

In relation to other specific occupations, under Section 37(3) EEA, it is an occupational requirement that those employed in the police, prison service or any emergency service are fully competent, available and capable of undertaking the range of functions associated with such positions so that the operational capacity of the services concerned may be preserved. Although not directed at employees with disabilities, 'the clear implication on reading the section is that it is'.⁴²⁶

This provision reflects the wording of Recital 18 Directive 2000/78/EC and was considered by the Labour Court in a 2018 case concerning a prison officer.⁴²⁷ The court found that subsection (3) exempted the listed occupations from the duty to provide reasonable accommodation under Section 16 EEA. However, the High Court overturned that finding on appeal.⁴²⁸ It held that the occupational requirement does not relieve an employer of its obligation to consider whether an employee could be retained with the provision of reasonable accommodation. The High Court noted that the only fact agreed between the parties was that Mr Cunningham was no longer able to undertake control and restraint duties. The complainant maintained that posts were available within the prison service which did not require officers to carry out such duties. The High Court found that the hearing before the Labour Court was 'unsatisfactory and unfair' because the complainant was not afforded the opportunity to advance such arguments and contest the respondent's

⁴²² According to the High Court, the exemption covers access to employment and conditions of employment. The provision, therefore, exempts use of an age restriction in respect of persons seeking to join the Defence Forces: *Smyth v. Minister for Justice, Equality and Defence & ors.* [2013] IEHC 110, 1 February 2013.

⁴²³ Section 2(1) of the Defence Act 1954 defines the 'Defence Forces' as 'the defence forces to be raised and maintained under this Act'. Chapter II of Part III of the Act sets out the constitution of the Defence Forces, with Section 18 providing that it consists of a Permanent Force and a Reserve Force both 'comprising army, naval and air components'.

⁴²⁴ The text of Section 37(5) refers to 'employment in the Defence Forces' and does not differentiate between categories of staff. A civilian employed by a representative body for members of the Defence Forces referred a successful age discrimination complaint in 2017. Although the respondent body was established under the law that regulates the Defence Forces, it appears to have been treated as a distinct entity and not considered part of the Defence Forces by the WRC. There is no reference to Section 37(5) in the decision: *Devereux v. Permanent Defence Force Other Ranks Representative Association*, ADJ-00007926, 17 November 2017, <https://www.workplacerelations.ie/en/Cases/2017/November/%20ADJ-00007926.html>.

⁴²⁵ Workplace Relations Commission, *Irwin v. Irish Defence Forces Naval Service*, ADJ-00031786, 17 August 2021, <https://www.workplacerelations.ie/en/cases/2021/august/adj-00031786.html>.

⁴²⁶ Bolger, M., Bruton C. and Kimber, C. (2022), *Employment equality law*, 2nd edition, Dublin, Thomson Reuters, Para. 7-185.

⁴²⁷ Labour Court, *Irish Prison Service v. A Prison Officer*, EDA1837, 17 July 2018, <https://www.workplacerelations.ie/en/cases/2018/july/eda1837.html>.

⁴²⁸ High Court, *Cunningham v. Irish Prison Service* [2020] IEHC 282, 9 June 2020.

assertions as to the operational capacity of the prison service. The State withdrew an appeal against the High Court's findings.⁴²⁹ The substantive case was re-heard by the Labour Court in 2024.⁴³⁰ It concluded that the question of reasonable accommodation did not arise on the facts, since the complainant failed to establish that he had a disability at the material time.

4.4 Nationality discrimination (Article 3(2))

a) Discrimination on the ground of nationality

In Ireland, national law includes exceptions relating to difference of treatment based on nationality.

Under Section 6(2)(h) EEA and Section 3(2)(h) ESA, the race ground includes 'nationality' and 'ethnic or national origins'.

Section 12(7) EEA allows for different treatment on the basis of nationality in relation to admission or attendance fees and in relation to the allocation of places on any vocational or training course between nationals of other countries and citizens of Ireland, Swiss and EEA nationals, or nationals of another Member State of the European Union. This exception would appear to comply with the provisions of Racial Equality Directive 3(2).

Section 17(2) EEA provides that, in relation to discrimination on the basis of nationality, nothing in the Act shall render unlawful any action taken in accordance with the Employment Permits Acts 2024.⁴³¹

Section 7(5)(b) ESA permits the Minister for Education and Youth to differentiate between Irish and EU nationals, Swiss and EEA nationals on the one hand and nationals of other countries on the other in relation to the provision of educational grants.

Section 14(1)(aa) ESA provides that distinctions based on nationality are allowed in relation to enforcement of the Immigration Act 2004 or in respect of other residency requirements.⁴³² This exception falls within the provisions contained in the Racial Equality Directive.

Section 6(7) ESA permits differential treatment of persons on the basis of nationality in relation to housing or accommodation provided by or on behalf of the relevant minister.

Section 5(2)(f) ESA permits a difference in treatment of persons on the basis of nationality in relation to the provision or organisation of a sporting facility or event, to the extent that the differences are reasonably necessary having regard to the nature of the facility or event and are relevant to the purpose of the facility or event.

A club will not be a discriminating club if it excludes membership by reason that its principal purpose is to cater for the needs of a particular nationality under Section 9 ESA.

⁴²⁹ See <https://www.ihrec.ie/news-press/prison-service-withdraws-appeal-on-significant-disability-rights-case/>. It was reported in a 2022 WRC decision that the appeal was withdrawn because of the CJEU's judgment in Case C-795/19, *XX v. Tartu Vangla: O'Connor v. Irish Prison Service*, [ADJ-00037941](https://www.ihrec.ie/news-press/prison-service-withdraws-appeal-on-significant-disability-rights-case/), 16 August 2022.

⁴³⁰ Labour Court, *Irish Prison Service v. Cunningham*, EDA2434, 2 September 2024, <https://www.workplacerelations.ie/en/cases/2024/september/eda2434.html>.

⁴³¹ Employment Permits Act 2024, 25 June 2024, <https://www.irishstatutebook.ie/eli/2024/act/17/enacted/en/print.html>.

⁴³² Immigration Act 2004, 13 February 2004, <http://www.irishstatutebook.ie/eli/2004/act/1/enacted/en/index.html>.

In Ireland, nationality (as in citizenship) is explicitly mentioned as a protected ground in national anti-discrimination law.⁴³³

Under Section 6(2)(h) EEA and Section 3(2)(h) ESA, the race ground includes 'nationality' and 'ethnic or national origins'.

b) Relationship between nationality and 'racial or ethnic origin'

There is no definition of nationality, nor any case law which would shed light on any overlap with ethnicity or on whether or not statelessness is covered.

4.5 Health and safety at work (Article 7(2) Directive 2000/78)

In Ireland, there are exceptions in relation to disability and health and safety at work, as allowed under Article 7(2) of the Employment Equality Directive.

Under Section 33 EEA, it is permissible to adopt positive action measures aimed at protecting the health and safety at work of persons with a disability, or at safeguarding or promoting the integration of such persons into the working environment.

There are no specific exemptions in relation to any of the other protected grounds, but issues such as dress codes are currently dictated by the policy of the individual employer. For example, employers who operate manufacturing processes that require a clean-room environment generally impose very strict regulations in respect of attire. Case law suggests that adjudicators will scrutinise dress codes for discriminatory impacts. In one case, a male retail worker was dismissed for not wearing a face mask after he refused to shave off his beard. The Labour Court found that the requirement to wear a face mask or remove facial hair was not motivated by considerations of hygiene or food safety. The dress code operated in a way that restricted the complainant's freedom to determine his own appearance to a significantly greater degree than it did in the case of women. Consequently, the dismissal was discriminatory on the gender ground.⁴³⁴

4.6 Exceptions related to discrimination on the ground of age (Article 6 Directive 2000/78)

4.6.1 Direct discrimination

a) Justification of direct discrimination on the ground of age

In Ireland, national law allows for specific justifications for direct discrimination on the ground of age.

The Equality (Miscellaneous Provisions) Act 2015 amended the EEA provisions on retirement ages and fixed-term contracts to explicitly provide that such measures must be objectively justified. In essence, the 2015 Act codified principles set out in case law, which had sought to align domestic law with the requirements of Directive 2000/78/EC.⁴³⁵ The

⁴³³ 'Nationality' was equated with 'citizenship' in Equality Tribunal, *Sabherwal v. ICTS (UK) Ltd.*, DEC-S2008-037, 11 June 2008, <https://www.workplacerelations.ie/en/Cases/2008/June/DEC-S2008-037-Full-Case-Report.html>.

⁴³⁴ Labour Court, *Dunnes Stores v. O'Byrne*, EED0314, 28 October 2003, <https://www.workplacerelations.ie/en/Cases/2003/October/EED0314.html>.

⁴³⁵ In *Donnellan v. The Minister for Justice, Equality and Law Reform* [2008] IEHC 467, 25 July 2008, the High Court noted that 'national measures relating to retirement ages are not excluded from consideration under Directive 2000/78/EC. Any discrimination with regards to age must, as put by that Directive, serve a legitimate aim or purpose, and the means taken to achieve that purpose be appropriate and should go no further than is necessary' [Para. 126]. *Donnellan* was routinely cited by adjudicators prior to the changes effected by the 2015 Act in requiring objective justification of retirement ages. See further: Equality Tribunal, *O'Mahony v. Southwest Doctors On Call Ltd.*, DEC-E2014-031, 14 May 2014, <https://www.workplacerelations.ie/en/Cases/2014/May/DEC-E2014-031.html>.

test is now compliant with EU law. Section 34(4) provides that an employer may set a retirement age provided it is objectively and reasonably justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary. Under Section 6(3)(c) an employer can offer a fixed-term contract to a person over the compulsory retirement age, if it is objectively and reasonably justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

b) Permitted differences of treatment based on age

In Ireland, national law permits differences of treatment based on age for any activities within the material scope of Directive 2000/78/EC.

Section 34(5) EEA permits employers to set a maximum age for recruitment which takes account of the cost or period of time involved in training a recruit to a standard at which the recruit will be effective in the job concerned and of the need for a reasonable period of time prior to retirement age during which the recruit will be effective in that job. It is availed of by the armed forces and by the police service (see further Section 4.6.3). Under Section 12(7) EEA, third-level educational institutions may treat people differently on the basis of age in allocating places on vocational training courses to mature students.

c) Fixing of ages for admission to occupational pension schemes

In Ireland, national law allows occupational pension schemes to fix ages for admission to the scheme, taking up the opportunity provided by Article 6(2).

Section 72(1) of the Pensions Acts 1990-2018, provides:

'It shall not constitute a breach of the principle of equal pension treatment on the age ground for a scheme to—

(a) fix age or qualifying service, or a combination of both, as a condition or criterion for admission to the scheme,

(b) fix different ages or qualifying service, or a combination of both, as conditions or criteria for admission to the scheme for employees or groups or categories of employees,

(c) fix age or qualifying service, or a combination of both, as a condition or criterion for entitlement to benefits under the scheme,

(d) fix different ages or qualifying service, or a combination of both, as conditions or criteria for entitlement to benefits under the scheme for employees or groups or categories of employees,

(e) (i) fix age or qualifying service, or a combination of both, as a condition or criterion in relation to the accrual of rights under a defined benefit scheme or in relation to the level of contributions to a defined contribution scheme, or

(ii) fix different ages or qualifying service, or a combination of both, as conditions or criteria in relation to the accrual of rights under a defined benefit scheme or in relation to the level of contributions to a defined contribution scheme for employees or groups or categories of employees,

where, in the context of the relevant employment, to do so is appropriate and necessary by reference to a legitimate objective of the employer, including legitimate employment policy, labour market and vocational training objectives,

(f) use criteria as to age in actuarial calculations:

Provided that this does not result in a breach of the principle of equal pension treatment on the gender ground.⁴³⁶

⁴³⁶ Applied, for example, in Equality Tribunal, *Charlton v. Bus Éireann*, DEC-P2011-004, 16 November 2011, <http://www.workplacerelations.ie/en/Cases/2011/November/DEC-P2011-004-Full-Case-Report.html>; *Kelly v. Iarnród Éireann*, DEC-P2013-001, 11 November 2013, <https://www.workplacerelations.ie:443/en/Cases/2013/November/DEC-P2013-001.html>; *Grey v. Local*

Section 34(3) EEA provides that it does not amount to discrimination on the age ground for an employer to fix ages for admission to an occupational benefits scheme or for entitlement to benefits under it; to fix different ages for all employees or a category of employees; to use, in the context of such a scheme, age criteria in actuarial calculations; or to provide different rates for severance payment for different employees, these rates being based on or taking into account the period between the age of an employee on leaving employment and their compulsory retirement age – provided that none of these measures constitute discrimination on the gender ground. Occupational benefit schemes are defined as schemes which provide benefits to employees or categories of employees on their becoming 'ill, incapacitated or redundant but does not include any occupational pension scheme providing for pensions, gratuities or other allowances payable on retirement or death'.⁴³⁷ In a 2025 case, the Labour Court found that this exception was applicable to a payment scheme for firefighters who were stood down, and provided additional compensation to those aged 55 and over.⁴³⁸

4.6.2 Special conditions for younger or older workers

In Ireland, there are no special conditions set by law for older and/or younger workers in order to promote their vocational integration.

4.6.3 Minimum and maximum age requirements

In Ireland, there are exceptions permitting minimum and maximum age requirements in relation to access to employment and training.

The Protection of Young Persons (Employment) Act 1996 in effect prohibits the employment of children aged under 14, while imposing various restrictions and conditions on the employment of children (aged 14-15) and young persons (aged 16-18).⁴³⁹

Under Section 6(3)(b) EEA, an employer may set a minimum recruitment age not exceeding 18 years.

Section 34(5) EEA provides that it does not constitute discrimination on the age ground to set, in relation to any job, a maximum age for recruitment which takes account of:

- '(a) any cost or period of time involved in training a recruit to a standard at which the recruit will be effective in that job, and
- (b) the need for there to be a reasonable period of time prior to retirement age during which the recruit will be effective in that job.'

In practice, it seems the exception is primarily used to set maximum age requirements for recruitment to posts in the police⁴⁴⁰ and armed forces.⁴⁴¹ Age limits include the following:

- Army, Air Corps and Navy under 39 at time of enlistment.⁴⁴²

Government Computer Services Board, DEC-P2010-004, 26 August 2010, <https://www.workplacerelations.ie:443/en/Cases/2010/August/DEC-P2010-004-Full-Case-Report.html>.

⁴³⁷ Section 34(3A) EEA.

⁴³⁸ Labour Court, *Kilkenny County Council v. Heafey*, EDA2535, 4 April 2025, <https://www.workplacerelations.ie/en/cases/2025/april/eda2535.html>.

⁴³⁹ Protection of Young Persons (Employment) Act 1996, 26 June 1996, <http://www.irishstatutebook.ie/eli/1996/act/16/enacted/en/html>.

⁴⁴⁰ S.I. No. 611/2023 - Garda Síochána (Admissions and Appointments) (Amendment) Regulations 2023, <https://www.irishstatutebook.ie/eli/2023/si/611/made/en/print>.

⁴⁴¹ Age limits for recruitment to the Defence Forces are also covered by Section 37(5) EEA. Section 56 of the Defence Act 1954 authorises the Minister for Defence to enact regulations on recruitment to the Defence Forces: <https://revisedacts.lawreform.ie/eli/1954/act/18/section/56/revised/en/html>.

⁴⁴² The age thresholds for recruitment to these posts was raised in March 2024: Dáil Éireann Debate, Defence Forces, 21 March 2024, <https://www.oireachtas.ie/en/debates/question/2024-03-21/52/>; The maximum

- Police under 50 to commence training.

This exception was considered for the first time in two 2020 WRC decisions, which were issued following protracted legal proceedings.⁴⁴³ The complainants sought to join the Garda Síochána (police force) in 2005 and 2007. Their applications were not considered because secondary legislation set 35 as the upper age limit for entry as a trainee. The WRC upheld the complaints. The respondent did not supply evidence of the costs associated with the training programme in place at the relevant time. For that reason, the WRC found that the Garda Commissioner could not avail of the exception provided for under Section 34(5). Both complainants were awarded the maximum compensation. On appeal, the Labour Court upheld the WRC's findings.⁴⁴⁴ In December 2023 secondary legislation was enacted to increase the new entrant age limit to 50.⁴⁴⁵

4.6.4 Retirement

a) State pension age

In Ireland, there is no state pension age at which individuals must begin to collect their state pensions, but they can be collected from 66. If an individual wishes to work beyond the state pension age, the pension can be deferred. An individual can collect a pension and still work.

The State Pension (Contributory) is paid to people from the age of 66 who have adequate social insurance contributions. It is not means-tested, and it is possible for people to derive income from other sources while in receipt of the pension. The pension is subject to tax. Persons aged 66 and over who do not qualify for the contributory pension are entitled to the means-tested State Pension (Non-Contributory), which is also subject to tax.⁴⁴⁶ The state pension age applies equally to men and women.

The Government established the Commission on Pensions in 2020 to inform a review of state pensions policy. The Commission was charged with examining, inter alia, qualifying age, contribution rates and eligibility for state pensions. The Commission on Pensions published its report in October 2021.⁴⁴⁷ It recommended, inter alia, an incremental increase in the qualifying age by three months each year commencing in 2028, reaching 67 in 2031, with further increases of three months every second year reaching 68 in 2039. However, in September 2022, the Government announced that the state pension age will remain at 66. From January 2024, people have the option of working until 70 in return for a higher pension.⁴⁴⁸

b) Occupational pension schemes

In Ireland, there is no standard age when people can begin to receive payments from occupational pension schemes and other employer-funded pension arrangements.

age of recruitment for Direct Entry Officer specialists was increased to 50 years in 2024: Dáil Éireann Debate, Defence Forces, 2 July 2024, <https://www.oireachtas.ie/en/debates/question/2024-07-02/81/>.

⁴⁴³ Workplace Relations Commission, *Boyle v. Commissioner of An Garda Síochána and The Minister for Justice Equality and Law Reform*, DEC-E2020-003, 5 October 2020, <https://www.workplacerelations.ie/en/cases/2020/october/dec-e2020-003.html>; *Fitzpatrick v.*

Commissioner of An Garda Síochána and The Minister for Justice Equality and Law Reform, DEC-E2020-002, 5 October 2020, <https://www.workplacerelations.ie/en/cases/2020/october/dec-e2020-002.html>.

⁴⁴⁴ Labour Court, *Commissioner of An Garda Síochána and The Minister for Justice Equality and Law Reform v. Boyle*, EDA234, 25 January 2023, <https://www.workplacerelations.ie/en/cases/2023/february/eda234.html>; *Commissioner of An Garda Síochána and The Minister for Justice Equality and Law Reform v. Fitzpatrick*, EDA233, 25 January 2023, <https://www.workplacerelations.ie/en/cases/2023/february/eda233.html>.

⁴⁴⁵ S.I. No. 611/2023 - Garda Síochána (Admissions and Appointments) (Amendment) Regulations 2023, <https://www.irishstatutebook.ie/eli/2023/si/611/made/en/print>.

⁴⁴⁶ See <https://www.gov.ie/en/department-of-social-protection/publications/state-pensions/>.

⁴⁴⁷ Commission on Pensions (2021), *Report of the Commission on Pensions*.

⁴⁴⁸ See further: <https://www.gov.ie/en/department-of-the-taoiseach/publications/closing-case-study-the-policy-cycle-in-practice-state-pension-reform/>.

This is subject to the individual contract, and deferral of pension is also subject to the terms of the employment contract.

c) State imposed mandatory retirement ages

In Ireland, there is no state-imposed mandatory retirement age(s) in private employment. There are state-imposed mandatory retirement age(s) with no extension possible for distinct categories of public sector workers. As discussed below, some of these provisions have been successfully challenged in litigation.

There is a statutory retirement age for some public servants, which is dependent on the date of recruitment. For people who joined the public service before 1 April 2004, the retirement age was raised from 65 to 70 in December 2018.⁴⁴⁹ Those who took up posts since 1 January 2013 must also retire at 70.⁴⁵⁰ Public servants recruited between April 2004 and December 2012 have no compulsory retirement age.

A civil servant who was required to retire at 65 successfully challenged the application of a retirement age set out in law.⁴⁵¹ The complainant was recruited before 1 April 2004 and became 65 before the retirement age was raised for civil servants in 2018. The WRC disapplied the legal provision in question and found that the respondent had failed to justify the retirement age. In a 2023 case, a public servant employed by a university successfully challenged application of the same legal provision. Since the employer offered no evidence concerning the rationale for the provision, its decision to dismiss the worker could not be objectively justified.⁴⁵²

In 2024, a mandatory retirement age of 70 for public-office holders called sheriffs was upheld by the Supreme Court in *Mallon v. The Minister for Justice*.⁴⁵³ The Court undertook a detailed analysis of CJEU case law in holding that the requirement was objectively justified in accordance with Article 6(1) of the Employment Equality Directive. It found that a generally applicable mandatory retirement rule could be validly applied without a requirement for individual capacity assessment. In a subsequent WRC case, *Ronan v. An Garda Síochána*, a civil servant who worked as a driver successfully challenged the application of a mandatory retirement age of 70.⁴⁵⁴ The WRC distinguished *Mallon* on the basis that the complainant would experience financial hardship if forced to retire. However, that decision was reversed on appeal.⁴⁵⁵ The Labour Court found that the respondent was implementing state policy in enforcing the mandatory retirement age set out in law and did not have discretion to waive it for individual employees (see case summary in Section 12.2).

Distinct compulsory retirement ages are set for members of An Garda Síochána (the police), the Defence Force, firefighters and prison officers.⁴⁵⁶ Legislation enacted in 2024

⁴⁴⁹ Public Service Superannuation (Age of Retirement) Act 2018, 26 December 2018, <http://www.irishstatutebook.ie/eli/2018/act/39/enacted/en/html>.

⁴⁵⁰ See further: Department of Public Expenditure and Reform (2017), [Review of barriers to extended participation in public service workforce](#).

⁴⁵¹ Workplace Relations Commission, *Geraghty v. The Office of the Revenue Commissioners*, ADJ-00000031, 4 November 2021, <https://www.workplacerelations.ie/en/cases/2021/november/adj-00000031.html>.

⁴⁵² Workplace Relations Commission, *O'Mahony v. University of Limerick*, ADJ-00031897, 13 January 2023, <https://www.workplacerelations.ie/en/cases/2023/january/adj-00031897.html>.

⁴⁵³ Supreme Court of Ireland, *Mallon v. The Minister for Justice, Ireland, and the Attorney General* [2024] IESC 20, 15 May 2024.

⁴⁵⁴ Workplace Relations Commission, *Ronan v. An Garda Síochána*, ADJ-00047174, 21 October 2024, <https://www.workplacerelations.ie/en/cases/2024/october/adj-00047174.html>.

⁴⁵⁵ Labour Court, *An Garda Síochána v. Ronan*, ED2560, 15 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/eda2560.html>.

⁴⁵⁶ The WRC has confirmed that civilian employees within the Defence Forces' representative association are not subject to the mandatory retirement age: *Devereux v. Permanent Defence Force Other Ranks Representative Association*, ADJ-00007926, 17 November 2017, <https://www.workplacerelations.ie/en/Cases/2017/November/%20ADJ-00007926.html>.

enables the relevant Minister to set a maximum retirement age between 60 and the 'normal retirement age' for such personnel.⁴⁵⁷ Regulations were subsequently adopted, allowing Gardaí, military personnel, prison officers and firefighters the option to retire at 62, rather than the previous maximum age of 60.⁴⁵⁸

Several challenges to regulations establishing the compulsory retirement age for Gardaí serving at the ranks of chief superintendent⁴⁵⁹ and superintendent⁴⁶⁰ were determined in 2020. In each instance the complaints failed. Imposing mandatory retirement ages was an appropriate and necessary means of achieving the aims of succession planning and ensuring motivation and dynamism within the police force. The measures were proportionate because the Garda Commissioner could extend an individual's employment, and the complainants were entitled to a full pension on attaining 30 years' service.

The WRC applied the Supreme Court's judgment in the *Mallon* case in upholding a mandatory retirement age of 60 for firefighters.⁴⁶¹ By contrast, in three subsequent decisions the WRC found that firefighters who were obliged to retire at the same age were subjected to direct discrimination.⁴⁶² In the intervening period, the retirement age for that occupation had been raised to 62 for workers who were medically fit to serve.⁴⁶³ Although that change took effect after the complainants reached 60, the WRC considered that the imposition of the rule was disproportionate, since colleagues who became 60 shortly after the complainants could remain in service.

d) Retirement ages imposed by employers

In Ireland, national law permits employers to set retirement ages (or ages at which the termination of an employment contract is possible) by contract or collective bargaining or unilaterally.

Section 34(4) EEA permits employers to fix different ages for the retirement of employees, whether their retirement is voluntary or compulsory, within the terms of the contract of

⁴⁵⁷ Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024, Part 11, <https://www.irishstatutebook.ie/eli/2024/act/30/enacted/en/html>.

⁴⁵⁸ For example, Civil Service Regulation Act 1956 (Retirement of Prison Officers) Regulations 2024 (S.I. No. 405 of 2024), <https://www.irishstatutebook.ie/eli/2024/si/405/made/en/print#>; Garda Síochána (Retirement) Regulations 2024 (S.I. No. 437/2024), <https://www.irishstatutebook.ie/eli/2024/si/437/made/en/print>.

⁴⁵⁹ Workplace Relations Commission, *Gordon v. Garda Commissioner and The Minister for Justice and Equality*, DEC-E2020-004, 7 October 2020, <https://www.workplacerelations.ie/en/cases/2020/october/dec-e2020-004.html>; *Murphy v. Garda Commissioner and The Minister for Justice and Equality*, DEC-E2020-006, 7 October 2020, <https://www.workplacerelations.ie/en/cases/2020/october/dec-e2020-006.html>; *Duggan v. Garda Commissioner and The Minister for Justice and Equality*, DEC-E2020-005, 7 October 2020, <https://www.workplacerelations.ie/en/cases/2020/october/dec-e2020-005.html>.

⁴⁶⁰ Workplace Relations Commission, *McKenna v. Garda Commissioner & Minister for Justice & Equality*, DEC-S2020-008, 15 October 2020, <https://www.workplacerelations.ie/en/cases/2020/october/dec-s2020-008.html>; *Brislane v. Garda Commissioner & Minister for Justice & Equality*, DEC-E2020-007, 20 October 2020, <https://www.workplacerelations.ie/en/cases/2020/october/dec-e2020-007.html>.

⁴⁶¹ Workplace Relations Commission, *Reilly v. Meath County Council*, ADJ-00050118, 4 July 2024, <https://www.workplacerelations.ie/en/cases/2024/july/adj-00050118.html>.

⁴⁶² Workplace Relations Commission, *Curran v. Carlow County Council*, ADJ-00052052, 10 December 2024, <https://www.workplacerelations.ie/en/cases/2024/december/adj-00052052.html>; *Murphy v. Carlow County Council*, ADJ-00052056, 16 December 2024, <https://www.workplacerelations.ie/en/cases/2024/december/adj-00052056.html>; *Kitterick v. Mayo County Fire Service*, ADJ-00050808, 3 April 2025, <https://www.workplacerelations.ie/en/cases/2025/april/adj-00050808.html>.

⁴⁶³ Circular Letter LG(P)05/2024 – Retained Firefighters Mandatory Retirement Age, <https://assets.gov.ie/308394/f8e26e5e-312f-4334-a7b8-cee527dfdc3b.pdf>; Local Government Act 2001 (Retirement of Firefighters) Regulations 2024 (S.I. No. 420/2024), <https://www.irishstatutebook.ie/eli/2024/si/420/made/en/pdf>.

employment, provided that (a) it is objectively and reasonably justified by a legitimate aim and (b) the means of achieving that aim are appropriate and necessary.⁴⁶⁴

In its 2021 report, the Commission on Pensions had recommended aligning retirement ages in employment contracts with the state pension age, by introducing legislation that permits but does not compel an employee to stay in employment until reaching that age.⁴⁶⁵ A law implementing that recommendation was enacted in December 2025.⁴⁶⁶ It will come into effect when the requisite ministerial order is signed. Workers will have the right to request an extension of their employment contract up to the statutory pensionable age (currently 66 years of age). When notified of that request, an employer that seeks to enforce the contractual retirement age must provide written objective justification within one month. An employer that fails to do so without reasonable cause shall be guilty of an offence. The provisions of the Employment (Contractual Retirement Ages) Act 2025 will be enforceable before the WRC. Employees may refer complaints about the enforcement of a mandatory retirement age without the provision of a reasoned written reply, the imposition of a contractual retirement age that is not objectively justified, or being penalised for invoking their rights under the legislation. The WRC will be empowered to direct a 'specified course of action, which may include re-instatement or re-engagement' of the employee concerned, and to award compensation not exceeding EUR 40 000, or two years' remuneration, whichever is greater. This new law does not amend EEA but will operate in tandem with it.

The objective justification requirement under EEA was expressly provided for under the Equality (Miscellaneous) Provisions Act 2015.⁴⁶⁷ Prior to its enactment, case law was inconsistent on the application of the requirement. This was in part attributable to a High Court judgment, which found that the Equality Tribunal (now the WRC) could not issue a ruling that sought to align domestic law with EU law where to do so would contravene the express terms of a national legal provision.⁴⁶⁸ Pursuant to a 2018 CJEU judgment, the WRC now has the authority to disapply national law where it conflicts with EU law.⁴⁶⁹

A Code of Practice on Longer Working was adopted in December 2017.⁴⁷⁰ Reflecting the explicit requirement set out under Section 34(4) EEA, as well as decisions of the Equality Tribunal that pre-date the legislative change, the Code advises employers that any mandatory retirement age must be capable of objective justification both by the existence of a legitimate aim and by evidence that the means of achieving that aim is appropriate and necessary.⁴⁷¹ It sets out the following examples of what may constitute a legitimate aim:

- intergenerational fairness (allowing younger workers to progress);⁴⁷²

⁴⁶⁴ In 2025, a complaint succeeded because the employer had not set a retirement age: Workplace Relations Commission, *Mooney v. The Hairy Lemon*, ADJ-00051372, 5 February 2025, <https://www.workplacerelations.ie/en/cases/2025/january/adj-00051372.html>.

⁴⁶⁵ Commission on Pensions (2021), *Report of the Commission on Pensions*.

⁴⁶⁶ Ireland, Employment (Contractual Retirement Ages) Act 2025, <https://www.irishstatutebook.ie/eli/2025/act/16/enacted/en/html>.

⁴⁶⁷ See <http://www.irishstatutebook.ie/eli/2015/act/43/section/10/enacted/en/html#sec10>.

⁴⁶⁸ High Court, *Minister for Justice, Equality and Law Reform and anor. v. Director of the Equality Tribunal and ors.* [2009] IEHC 72, 17 February 2009. Applied, for example, in Equality Tribunal, *Goss v. Ryanair*, DEC-E2015-138, December 2014, <https://www.workplacerelations.ie/en/Cases/2015/December/DEC-E2015-138.html>.

⁴⁶⁹ Judgment of 4 December 2018, *Minister for Justice and Equality and The Commissioner of the Garda Síochána v. Workplace Relations Commission*, C-378/17, ECLI:EU:C:2018:979.

⁴⁷⁰ S.I. No. 600/2017 - Industrial Relations Act 1990 (Code of Practice on Longer Working) (Declaration) Order 2017, 20 December 2017, <http://www.irishstatutebook.ie/eli/2017/si/600/made/en/print>.

⁴⁷¹ The primary precedent on objective justification prior to the change effected under the 2015 Act is Equality Tribunal, *Doyle v. ESB International*, DEC-E2012-086, 27 June 2012, <https://www.workplacerelations.ie/en/cases/2012/june/dec-e2012-086-full-case-report.html>.

⁴⁷² See, for example, Labour Court, *Bord Na Mona Plc v. Kenny*, EDA2232, 5 December 2022, <https://www.workplacerelations.ie/en/cases/2022/december/eda2232.html>.

- motivation and dynamism through the increased prospect of promotion;⁴⁷³
- health and safety (generally in more safety-critical occupations);⁴⁷⁴
- creation of a balanced age structure in the workforce;⁴⁷⁵
- personal and professional dignity (avoiding capability issues with older employees);⁴⁷⁶
- succession planning.⁴⁷⁷

Case law has established that reducing financial costs is not in and of itself a legitimate aim.⁴⁷⁸ In 2025, the Labour Court upheld a complaint referred by a factory worker about the imposition of a mandatory retirement age of 65.⁴⁷⁹ It found that the employer did not engage meaningfully with the complainant's request to work for a further year and had 'hastily sought to construct a retrospective type of objective justification' (summarised in Section 12.2).

e) Employment rights applicable to all workers irrespective of age

The law on protection against dismissal and other laws protecting employment rights apply to all workers irrespective of age, even if they remain in employment after attaining pensionable age or any other age. To be covered by the Unfair Dismissals Acts 1977-2015,⁴⁸⁰ employees must not have reached the normal retirement age for 'employees of the same employer in similar employment'.⁴⁸¹ It is, however, possible for an employee to contest their dismissal in the form of compulsory retirement under the legislation by, for example, establishing that the employer did not have a normal retirement age in place or that it was inconsistently applied.⁴⁸² Employees contesting age-based discrimination (or discrimination on any other ground) may avail of their rights under EEA, which are not subject to an upper age limit.

Section 6(3)(a) EEA prohibits discrimination on the grounds of age for persons above 16.

f) Compliance of national law with CJEU case law

⁴⁷³ See for example, Workplace Relations Commission, *Murphy v. Royal College of Surgeons in Ireland*, ADJ-00046831, 14 July 2025, <https://www.workplacerelations.ie/en/cases/2025/july/adj-00046831.html>.

⁴⁷⁴ See, for example, Labour Court, *Transdev Light Rail Limited v. Chrzanowski*, EDA1632, 29 November 2016, <https://www.workplacerelations.ie/en/Cases/2016/November/EDA1632.html>. Applied in, for example, Workplace Relations Commission, *Marine Pilot v. Port Company*, ADJ-00004560, 5 February 2019, <https://www.workplacerelations.ie/en/cases/2019/february/adj-00004560.html>. See also *Browne v. MSR-FSR Managed Engineering Solutions*, ADJ-00037905, 2 March 2023, <https://www.workplacerelations.ie/en/cases/2023/march/adj-00037905.html>.

⁴⁷⁵ See, for example, Labour Court, *Amari Ireland Limited v. Davidson*, EDA2433, 30 August 2024, <https://www.workplacerelations.ie/en/cases/2024/september/eda2433.html>.

⁴⁷⁶ See, for example, Labour Court, *Pat O'Donnell & Company v. O'Keeffe*, EDA2133, 28 September 2021, <https://www.workplacerelations.ie/en/cases/2021/september/eda2133.html>.

⁴⁷⁷ See, for example, Workplace Relations Commission, *Donnellan v. Eircom Limited*, ADJ-00051860, 1 October 2025, <https://www.workplacerelations.ie/en/cases/2025/october/adj-00051860.html>.

⁴⁷⁸ See, for example, Workplace Relations Commission, *Devereux v. Permanent Defence Force Other Ranks Representative Association*, ADJ-00007926, 17 November 2017, <https://www.workplacerelations.ie/en/Cases/2017/November/%20ADJ-00007926.html>.

⁴⁷⁹ Labour Court, *Deepak Fasteners (Shannon) Ltd. v. Murphy*, EDA2545, 24 July 2025, <https://www.workplacerelations.ie/en/cases/2025/august/eda2545.html>; overturning Workplace Relations Commission, *Murphy v. Deepak Fasteners (Shannon) Ltd.*, ADJ-00040284, 9 May 2024, <https://www.workplacerelations.ie/en/cases/2024/may/adj-00040284.html>.

⁴⁸⁰ Unfair Dismissals Act 1997, 6 April 1977; Unfair Dismissals (Amendment) Act 1993, 14 July 1993. Revised text available at: https://www.lawreform.ie/fileupload/RevisedActs/WithAnnotations/HTML/EN_ACT_1977_0010.htm.

⁴⁸¹ Section 2(1)(b), Unfair Dismissals Acts 1977-2015; applied in Workplace Relations Commission, *Fleming v. Instant Upright Limited*, ADJ-00033239, 18 February 2022, <https://www.workplacerelations.ie/en/cases/2022/february/adj-00033239.html>. Under the Equality Act 2004, the automatic exclusion of employees over the statutory retirement age under the redundancy payments legislation (i.e. 66 years or over) from being able to bring an unfair dismissal claim was removed.

⁴⁸² See, for example, Labour Court, *Longford County Council v. Neilon*, UDD1950, 2 September 2019, <https://www.workplacerelations.ie/en/cases/2019/september/udd1950.html>. An unfair dismissal complaint was upheld since the employer could not establish that a normal retirement age existed within the organisation.

In Ireland, national legislation is in line with the CJEU case law on age regarding mandatory retirement.⁴⁸³

Section 34(4) EEA was amended in 2015 to provide that, while employers may set different retirement ages for employees, such a provision must be objectively and reasonably justified by a legitimate aim, and the means of achieving that aim must be appropriate and necessary.

4.6.5 Redundancy

a) Age and seniority taken into account for redundancy selection

In Ireland, national law does not permit age or seniority to be taken into account in selecting workers for redundancy.

Section 8(6)(c) EEA provides that employers will discriminate on any of the nine grounds, including age, if they do not afford employees the same treatment in relation to redundancies.⁴⁸⁴

b) Age taken into account for redundancy compensation

In Ireland, national law provides compensation for redundancy. Such compensation may be affected by the age of the worker.

The Redundancy Payments Acts 1967-2022 provide for a minimum entitlement to a redundancy payment for employees who have a set period of service with the employer.⁴⁸⁵ In order to qualify for a payment, employees must be aged over 16 and have worked continuously for the employer for at least 104 weeks while over the age of 16. There is no upper age limit.

Employers may agree a redundancy payment above the statutory minimum, and in such circumstances, compensation may be affected by the age of the worker. Section 34(3)(d) EEA provides:

'In an occupational benefits scheme it shall not constitute discrimination on the age ground for an employer... to provide different rates of severance payment for different employees or groups or categories of employees, being rates based on or taking into account the period between the age of an employee on leaving the employment and his or her compulsory retirement age, provided that that does not constitute discrimination on the gender ground.'

Occupational benefits schemes include benefits payable on redundancy.

The Labour Court interpreted the exception in a 2013 case.⁴⁸⁶ The complainants had been employed for periods ranging from 16 to 25 years and were offered redundancy terms that provided for a payment of five weeks' pay per year of service, in addition to statutory

⁴⁸³ The WRC frequently relies on the principles developed by the CJEU in salient judgments, such as Judgment of 16 October 2007, *Palacios de la Villa v. Cortefiel Servicios SA*, [Case C-411-05](#), ECLI:EU:C:2007:604 and Judgment of 22 November 2005, *Mangold v. Helm*, [Case C-144/04](#), ECLI:EU:C:2005:709.

⁴⁸⁴ Applied, for example, in Equality Tribunal, *O'Farrell v. Mercury Engineering*, DEC-E2012-096, 24 July 2012, <https://www.workplacerelations.ie/en/Cases/2012/July/DEC-E2012-096-Full-Case-Report.html>. Selection for redundancy on the basis of age may also constitute unfair dismissal under Section 6(3) of the Unfair Dismissals Acts 1997-2015.

⁴⁸⁵ Redundancy Payment Act 1967, 18 December 1967, <http://www.irishstatutebook.ie/eli/1967/act/21/enacted/en/html>. A revised text is available at: <https://revisedacts.lawreform.ie/eli/1967/act/21/revised/en/html>.

⁴⁸⁶ Labour Court, *Hospira v. Roper*, EDA 1315, 29 April 2013, <https://www.workplacerelations.ie/en/Cases/2013/April/EDA1315.html>.

redundancy payments. However, employees who were close to retirement age would receive either the terms of the agreed package or the amount of salary that they would have earned had they remained in employment until the normal retirement age of 65, whichever was the lesser. Each complainant would receive less than the amount paid to younger workers. According to the Court, under Directive 2000/78/EC Member States, as opposed to individual employers, could provide for differences in treatment on grounds of age where those differences could be objectively justified by a legitimate aim. The Court found that the Oireachtas had made express provision for differences in treatment based on age in respect of severance payments through Section 34(3)(d). It stated that,

‘the underlying rationale for this provision is that workers close to retirement are in a substantially different position than those who have longer periods in which they could have expected to remain in the active labour force and that, as a matter of social and labour market policy, this difference can be legitimately reflected in constructing redundancy packages... Against this backdrop, it appears that the Oireachtas considered it reasonably and objectively justifiable, within the meaning of Article 6(1) of the Directive, to provide for the differences in treatment allowed for by s.34(3)(d) of the Act.’

The Labour Court found that the method of calculating the redundancy packages was permitted under EEA. Its decision was distinguished in a 2017 case that upheld a complaint of indirect discrimination on the ground of age with respect to redundancy compensation.⁴⁸⁷ The impugned provision (a cap limiting payment to 1.25 times an employee’s salary) was not saved by Section 34(3)(d), since it was not directly linked to proximity to retirement. Application of the cap resulted in the two complainants receiving proportionately less compensation per year of service compared with younger workers (years of service being inextricably linked with age). The WRC found that the established disadvantage was not objectively justified. While the respondent’s aim was legitimate – ensuring an equitable distribution amongst the respondent’s workforce – it did not provide any evidence at the time of applying the provision that it had considered whether there were other less discriminatory ways of achieving the aim.

4.7 Further exceptions necessary in a democratic society: Public security, public order, criminal offences, protection of health, protection of the rights and freedoms of others (Article 2(5) Directive 2000/78)

In Ireland, national law includes exceptions that seek to rely on Article 2(5) of the Employment Equality Directive.

Sections 16(5) and (6) EEA state that an employer is not required to recruit, retain or promote a person if they are aware, on the basis of a criminal conviction or other reliable information, that the individual engages or has a propensity to engage in any form of unlawful sexual activity, particularly where the employment involves access to minors or other vulnerable persons.

The WRC applied Article 2(5) of the Directive directly in a 2025 case concerning the public health measures adopted during the COVID-19 pandemic.⁴⁸⁸ The complainant, who had an unspecified disability, was in a category of persons who were deemed to be at high risk of severe illness and advised to remain at home. She maintained that her employer should have enabled her to resume working, including by initially allocating duties that could have been carried out at home. The respondent argued that it was obliged to follow the public health guidance and that the role of Residential Social Care Worker was one that could

⁴⁸⁷ Workplace Relations Commission, *2 Named Complainants v. A Catering Company*, DEC-E2017-054, 18 July 2017, <https://www.workplacerelations.ie/en/Cases/2017/July/DEC-E2017-054.html>.

⁴⁸⁸ Workplace Relations Commission, *Childcare Supervisor v. Oberstown Children Detention Campus*, ADJ-00037288, 10 February 2025, <https://www.workplacerelations.ie/en/cases/2025/february/adj-00037288.html>.

never be carried out remotely. No specific EEA provision creates an exception for the 'protection of public health'. The WRC considered that the employer's action was justified having regard to Article 2(5).

4.8 Any other exceptions

In Ireland, other exceptions to the prohibition of discrimination (on any ground covered by this report) provided in national law are the following.

Under Section 36(1-2) EEA, it is permissible to impose requirements in relation to residence, citizenship and proficiency in the Irish language for the following public service jobs: office holders in the service of the State, including the police service (Garda Síochána), Defence Forces, civil servants, officers of local authorities, harbour authorities, health boards and vocational education committees. While such requirements are permitted, not all of these positions impose such restrictions. The police service has removed the requirement for proficiency in the Irish language, requiring only proficiency in two languages at least one of which is Irish or English, and employment is open to EU and EEA nationals, Swiss nationals, refugees under the Refugee Act 1996⁴⁸⁹ or to persons with one year's continuous legal residence in the state and a total legal residence amounting to four years in the preceding eight years (the asylum process does not count towards the qualifying five-year period).⁴⁹⁰ It is also permissible under the Act to require Irish-language proficiency from teachers in both primary and post-primary schools.⁴⁹¹ Finally, Section 36 permits the imposition of certain educational requirements for certain posts,⁴⁹² professions, occupations or vocations.⁴⁹³

Under Section 35(1) EEA it is not discriminatory to pay a person with a disability less if their output is lower than that of a non-disabled worker. It provides:

'Nothing in this Part or *Part II* shall make it unlawful for an employer to provide, for an employee with a disability, a particular rate of remuneration for work of a particular description if, by reason of the disability, the amount of that work done by the employee during a particular period is less than the amount of similar work done, or which could reasonably be expected to be done, during that period by an employee without the disability.'

The rate of pay cannot fall below the statutory minimum wage.⁴⁹⁴ In a parliamentary debate on the provision, the Minister maintained that its purpose was to encourage employers to hire more people with disabilities.⁴⁹⁵ As noted above, in 2023 the Labour Court found that the provision enables employers to reduce the pay of employees who are working in a different manner as a consequence of reasonable accommodation measures (Section 3.2.2).⁴⁹⁶ The provision seems to contravene the Employment Equality Directive, which does not provide for any such exemption.⁴⁹⁷

⁴⁸⁹ Refugee Act 1996, 26 June 1996, <http://www.irishstatutebook.ie/eli/1996/act/17/enacted/en/html>.

⁴⁹⁰ S.I. No. 470/2013, Garda Síochána (Admission and Appointments) Regulations 2013, <http://www.irishstatutebook.ie/eli/2013/si/470/made/en/print>.

⁴⁹¹ Section 36(3) EEA.

⁴⁹² Section 36(4) EEA. See Labour Court, *Health Service Executive v. Fitzgerald*, EDA1915, 22 May 2019, <https://www.workplacerelations.ie/en/cases/2019/may/eda1915.html>.

⁴⁹³ Section 36(5) EEA.

⁴⁹⁴ Section 35(4) EEA.

⁴⁹⁵ Dáil Éireann debate, Equality Bill 2004 [Seanad]: Report and Final Stages, 1 July 2004, <https://www.oireachtas.ie/en/debates/debate/dail/2004-07-01/11/>.

⁴⁹⁶ Labour Court, *DHL Supply Chain (Ireland) Limited v. McAndrew*, EDA2341, 14 November 2023, <https://www.workplacerelations.ie/en/cases/2023/december/eda2341.html>.

⁴⁹⁷ The UN Committee on Economic, Social and Cultural Rights has recommended that the provision be repealed: UN Committee on Economic, Social and Cultural Rights (2024), *Concluding observations on the fourth periodic report of Ireland*, [E/C.12/IRL/CO/4](https://www.unhcr.org/refugees/4), 1 March 2024, Para. 29(c).

ESA's principal and most problematic exception is contained in Section 14(1)(a)(i), which provides that nothing in the Act can be construed as prohibiting the taking of any action required by any enactment or order of a court, any measure adopted by the European Union or any international convention.⁴⁹⁸

ESA contains a number of exceptions to the prohibition of discrimination in the supply of goods and services, including the following:

- Differences in treatment are permitted in relation to 'annuities, pensions, insurance policies' or other matters related to the assessment of risk. The difference in treatment should relate to actuarial or statistical data or other relevant underwriting or commercial factor and should be reasonable.⁴⁹⁹
- Difference in the treatment of persons on the religion ground in relation to goods or services provided for a religious purpose.⁵⁰⁰
- Difference in treatment of persons on the gender, age or disability ground or on the basis of nationality or national origin in the organisation of sporting events.⁵⁰¹
- Having an age requirement for persons to be either an adoptive or foster parent.⁵⁰²
- Differences in the treatment of persons in respect of the disposal of goods, or the provision of a service, which can reasonably be regarded as goods or a service suitable only to the needs of certain persons.⁵⁰³

Section 46 ESA provides that the provisions of the Act apply in respect of ships and aircraft registered in the state, but that actions done in respect of such a ship or aircraft while subject to the jurisdiction of a country outside of the state and that are required by the law of that state shall not constitute discrimination.

Section 7(3)(e) ESA provides that it will not amount to age discrimination to allocate places at third-level institutions for mature students (i.e. those over 23).

Section 16 ESA permits the imposition or maintenance of preferential fee charges in respect of goods or services being offered for persons with children, married couples, persons in a specific age group or persons with a disability. The section also permits different treatment where a person is treated differently solely in the exercise of a clinical judgment in connection with the diagnosis of illness or their medical treatment or is incapable of entering into an enforceable contract or of giving an informed consent and for that reason the treatment is reasonable in the particular case.⁵⁰⁴

Section 15(1) ESA stipulates that a person who provides goods or services is not required to deal with a customer in circumstances which would lead a reasonable individual having the responsibility, knowledge and experience of the person to the belief, on grounds other than discriminatory grounds, that to deal with the customer would produce a substantial risk of criminal or disorderly conduct or behaviour or damage to property at or in the vicinity of the place in which the goods or services or the premises or accommodation are

⁴⁹⁸ See Walsh, J. (2019), 'Primacy of national law over EU law? The application of the Irish Equal Status Act', [European Equality Law Review 2019\(2\)](#), pp. 35–48.

⁴⁹⁹ Section 5(2)(d) ESA.

⁵⁰⁰ Section 5(2)(e) ESA.

⁵⁰¹ Section 5(2)(f) ESA.

⁵⁰² Section 5(2)(j) ESA.

⁵⁰³ Section 5(2)(l) ESA. This is an especially vague exception, which to date has been substantively considered in just two cases on the family status ground: Equality Tribunal, *Shanahan v. One Pico Restaurant*, DEC-S2003-056, 30 June 2003, <https://www.workplacerelations.ie/en/Cases/2003/June/DEC-S2003-056-Full-Case-Report.html>, and *Travers and Maunsell v. Ball Alley House*, DEC-S2003-109/110, 12 September 2003, https://www.workplacerelations.ie/en/cases/2003/september/dec-s2003-109-110_full_case_report.html. The respondents sought to invoke the exception to justify the exclusion of parents with infants from a restaurant and pub respectively. On the facts, the Tribunal found that the services in question could not be considered as suitable only for the needs of persons without children.

⁵⁰⁴ Section 16(2)(a) and (b) ESA.

located.⁵⁰⁵ This provision was applied in a 2023 case concerning admission to an event organised by a women's rights NGO, the National Women's Council of Ireland (NWCi).⁵⁰⁶ On the morning of the event, NWCi staff became aware that another organisation had circulated a press release to thousands of people on social media which discussed one of the NWCi's board members, a trans woman, and stated that it planned to 'stage an action' at the event. The WRC found that the respondent could avail of Section 15(1) in refusing to admit members of the organisation and persons aligned with it including the complainant. It noted that the NWCi was compelled to 'act quickly' to deal with a 'substantial risk of criminal or disorderly conduct or behaviour.'

Actions taken in good faith by owners of licensed premises for the purpose of complying with the Licensing Acts do not constitute discrimination (Section 15(2) ESA). Case law establishes that 'in good faith' means that the actions must be done honestly and without prejudice.⁵⁰⁷ In *Conroy v. Costello*, the Equality Officer stated that in 'order to take an action in good faith it has to be free from any discriminatory motivation'.⁵⁰⁸ Any action taken should be for the sole purpose of ensuring compliance with the provisions of the Licensing Acts.⁵⁰⁹

⁵⁰⁵ Applied, for example, in Workplace Relations Commission, *McDonagh and Stokes v. City Cinemas Limited*, DEC-S2017-024, 21 July 2017, <https://www.workplacerelations.ie/en/Cases/2017/July/DEC-S2017-024.html>: the denial of access to the cinema was not due to the complainants' membership of the Traveller community but resulted from 'their threatening and abusive behaviour on the night previous to the incident'.

⁵⁰⁶ Workplace Relations Commission, *Holmes v. National Women's Council of Ireland*, ADJ-00040678, 27 October 2023, <https://www.workplacerelations.ie/en/cases/2023/october/adj-00040678.html>.

⁵⁰⁷ Equality Tribunal, *Delaney v. The Harp Bar*, DEC-S2002-53/56, 31 May 2002, <https://www.workplacerelations.ie/en/Cases/2002/May/DEC-S2002-053-056.html>.

⁵⁰⁸ Equality Tribunal, *Conroy v. Costello*, DEC-S2001-014, November 2001, <https://www.workplacerelations.ie/en/Cases/2001/November/DEC-S2001-014.html>.

⁵⁰⁹ Equality Tribunal, *Mongan and Ors v. The Waterside Hotel*, DEC-S2003-008/014, 25 February 2003, https://www.workplacerelations.ie/en/Cases/2003/February/DEC-S2003-008-014_Full_Case_Report.html.

5 POSITIVE ACTION (Article 5 Directive 2000/43, Article 7 Directive 2000/78)

a) Scope for positive action measures

In Ireland, positive action is permitted in national law in respect of age, civil status, disability, family status, gender, race, religion, sexual orientation and membership of the Traveller community.

Section 33 EEA provides that nothing in the Act 'shall render unlawful measures that are maintained or adopted with a view to ensuring full equality in practice between employees'.⁵¹⁰ It then provides that such measures are ones that 'prevent or compensate for disadvantages linked to any of the discriminatory grounds'; 'protect the health or safety at work of persons with a disability' or 'create or maintain facilities for safeguarding or promoting the integration of such persons into the working environment'. There is no explicit requirement of necessity or of proportionality.

Section 35 EEA provides for 'special provisions related to persons with disabilities'. It stipulates, in Section 35(2), that nothing in EEA shall make it unlawful:

- 'For an employer or any other person to provide, for a person with a disability, special treatment or facilities where the provision of that treatment or those facilities—
- (a) enables or assists that person to undertake vocational training, to take part in a selection process or to work, or
- (b) provides that person with a training or working environment suited to the disability, or
- (c) otherwise assists that person in relation to vocational training or work.'

In accordance with Section 35(3), a person without a disability or with a different disability 'shall not be entitled' to such special treatment or facilities.

The provisions were considered for the first time in *Lydon v. Navan Education Centre*.⁵¹¹ The complainant asserted that he had been subject to less favourable treatment on the disability ground in the course of an appointments process. Certain staff employed by the respondent on a secondment basis were advised that they would have to reapply for their jobs and that there would be a reduced number of posts available. One of the three candidates for two available posts became seriously ill immediately prior to the scheduled interviews. Having interviewed the complainant and another candidate, the respondent delayed the recruitment process to enable the ill colleague to attend an interview. When there was no indication of when she would recover, the respondent deemed the ill colleague to be appointed. It informed the complainant that he had ranked second at interview and that the first-ranked candidate would be appointed to the remaining post.

The respondent argued that its decision to appoint the ill colleague without an interview amounted to positive action as provided for under Section 33. The adjudication officer found that the respondent's actions did not fall within the ambit of that section, since it was not aimed at ensuring 'full equality in practice'. Full equality might have been achieved by, for example, adopting an alternative means of assessing all of the candidates without recourse to interviews. He found rather that the employer's actions were saved by Section 35(2). Notwithstanding the fact that the comparator was not assessed in any way, 'Section 35 appears to give an employer wide latitude in giving a disabled employee special treatment or facilities; it states "nothing in this Part... shall make it unlawful etc."' The language of the provision covers special treatment and facilities and does not exclude the actions taken by the respondent in this case. The actions taken by the respondent enabled the comparator to work. While this disadvantaged the complainant, it was permissible

⁵¹⁰ Positive action on the gender ground is provided for separately under Section 24 EEA.

⁵¹¹ Workplace Relations Commission, DEC-E2018-003, 26 January 2018, <https://www.workplacerelations.ie/en/Cases/2018/January/DEC-E2018-003 %20.html>.

special treatment within the scope of the Employment Equality Act' (Paragraph 4.12). On appeal, the Labour Court did not consider the ambit of the positive action provisions, since it held that the disability ground operates asymmetrically. As a person without a disability, the complainant did not have *locus standi* to bring a disability-ground complaint under EEA.⁵¹²

Section 33 was applied to the age ground for the first time in two interrelated 2024 cases.⁵¹³ The WRC found that an employer did not discriminate against younger employees in confining certain payments to workers who were approaching retirement. In an appeal of one of those cases, the Labour Court upheld the WRC's decision. It found that the payment arrangement for older workers qualified as an exempted occupational scheme under Section 34(3) EEA (as had the WRC) but it did not address the application of the positive action provision. As noted above, Section 34(3) provides that it is permissible to treat workers differently on the age ground in relation to eligibility for an occupational benefits scheme, which includes any scheme (whether statutory or non-statutory) providing for benefits to employees or any category of employees on their becoming ill or incapacitated⁵¹⁴ (see Section 4.6.1).

Several ESA provisions permit positive action. Section 14(1)(b) ESA provides that nothing in the Act shall prohibit preferential treatment or the taking of positive measures that are bona fide intended to:

- (i) promote equality of opportunity for persons who are, in relation to other persons, disadvantaged or likely to be unable to avail themselves of the same opportunities as those other persons; or
- (ii) cater for the special needs of persons, or category of persons, who, because of their circumstances, may require facilities, arrangements, services or assistance not required by persons who do not have those special needs.

In a 2018 case, a parent argued that a school transport scheme was discriminatory on the ground of religion.⁵¹⁵ While children who wished to attend a minority religious ethos school were entitled to access the scheme without restriction, children seeking to attend a Catholic ethos school were subject to eligibility criteria based on the distance between their place of residence and the nearest education centre. The WRC assessed whether this acknowledged preferential treatment fell within the parameters of Section 14(1)(b)(i), as contended by the respondent. It noted that the applicable test was not whether the treatment was 'reasonable or appropriate or excessively favourable'; rather, it had to be established that there was a bona fide intention to promote equality of opportunity for persons who were disadvantaged or less likely to be able to avail of the opportunity to attend education through the ethos of minority religions compared with persons not in that category. According to the adjudication officer, the respondent provided 'compelling evidence' to that effect. It argued that the measure was necessary to maintain adequate numbers of pupils in minority ethos schools, which would otherwise be at risk of becoming unviable. There were, for instance, only 23 schools in the state providing post-primary education through the Church of Ireland ethos, compared with 343 Catholic ethos schools. Considering such evidence, the WRC was satisfied that the preferential treatment was based on a bona fide intention to promote equality of opportunity for disadvantaged persons within the meaning of Section 14(1)(b)(i).

⁵¹² Labour Court, *Navan Education Centre v. Lydon*, EDA 1848, 11 December 2018, <https://www.workplacerelations.ie/en/Cases/2018/December/EDA1848.html>.

⁵¹³ Workplace Relations Commission, *Heafey v. Kilkenny County Council*, ADJ-00045672, 10 July 2024, <https://www.workplacerelations.ie/en/cases/2024/july/adj-00045672.html>; *Whyte v. Kilkenny County Council*, ADJ-00044001, 10 July 2024, <https://www.workplacerelations.ie/en/cases/2024/july/adj-00044001.html>.

⁵¹⁴ Labour Court, *Kilkenny County Council v. Heafey*, EDA2535, 4 April 2025, <https://www.workplacerelations.ie/en/cases/2025/april/eda2535.html>.

⁵¹⁵ Workplace Relations Commission, *A Parent v. Department of Education and Skills*, ADJ-00009625, 9 July 2018, <https://www.workplacerelations.ie/en/cases/2018/july/adj-00009625.html>.

Section 14(1)(b)(ii) was applied to rebut a prima facie case of discrimination in a 2019 case.⁵¹⁶ A man referred a complaint of gender-ground discrimination because he was not permitted to use the female-only area at a fitness club. The respondent argued that it reserved a space for the exclusive use of females for two reasons. Firstly, it enabled Muslim female members to exercise without wearing their headscarves. Secondly, it allayed health and safety concerns in respect of older women, who had experienced difficulty in using the main gym because many items of equipment had been left by males after use with extremely heavy weights attached. Citing Section 14(1)(b), the adjudication officer was satisfied that the respondent provided objective reasons justifying its decision to provide a female-only area, 'based on the very specific needs of a category of persons who would not otherwise be able to participate'.

Section 5(2)(h) allows differences in treatment in relation to services that are provided for the principal purpose of promoting the special interests of people in a 'category of persons'. Any difference in treatment of people in that category must be reasonably necessary to promote their special interests and must be undertaken in a bona fide manner. The term 'category' is not defined, but it seems to be used throughout ESA to denote a sub-group of people falling under one of the discriminatory grounds, for example persons with a particular disability or of a specific nationality or age. The Equality Tribunal has noted that the meaning of Section 5(2)(h) is ambiguous, and commented: 'On the basis that the treatment must flow from the promotion of the special interests of persons in the category... this sub-section of the Equal Status Act, 2000 will normally, if not always, relate to the justification of more favourable treatment of a particular category of persons'.⁵¹⁷

In *Keane v. World Travel Centre*,⁵¹⁸ a company that offered reduced fares on flights only to Filipino nationals could not justify its policy under Section 5(2)(h). World Travel Centre maintained that it was engaging in 'positive discrimination'. The Equality Officer disagreed and found that it did not meet any of 'the strict and comprehensive criteria required by Section 5(2)(h)' (at Paragraph 5.5). The sole purpose of the special offer was to gain a commercial advantage over competitors and not to advance the special interests of the Filipino community. By contrast, a competition for entrepreneurs was designed to promote the interests of people in the 18-35 age bracket in a bona fide manner and so could avail of the exception in excluding persons above that age from eligibility.⁵¹⁹

Section 6(6) ESA permits different treatment by housing authorities and voluntary housing associations in the provision of accommodation on the basis of family size, family status, civil status, disability, age or membership of the Traveller community (race and ethnicity are not mentioned in this section). Section 16(1) ESA also permits preferential fee charges in respect of goods and services for persons with a disability or in specific age groups.

b) Quotas in employment for persons with disabilities

In Ireland, national law provides for a quota for the employment of persons with disabilities.

From 2025, a 6 % quota applies to the employment of persons with disabilities in the civil and public service.⁵²⁰ Public bodies are obliged to meet that target, 'unless there is good

⁵¹⁶ Workplace Relations Commission, *Hogan v. Westwood Health Club*, ADJ-00020951, 23 September 2019, <https://www.workplacerelations.ie/en/cases/2019/september/adj-00020951.html>.

⁵¹⁷ Equality Tribunal, *Shanahan v. One Pico Restaurant*, DEC-S2003-056, 30 June 2003, at Para. 7.2, <https://www.workplacerelations.ie/en/Cases/2003/June/DEC-S2003-056-Full-Case-Report.html>.

⁵¹⁸ Equality Tribunal, DEC-S2011-035, 15 August 2011, <https://www.workplacerelations.ie/en/Cases/2011/August/DEC-S2011-035-Full-Case-Report.html>.

⁵¹⁹ Workplace Relations Commission, *Savage v. Fingal County Council*, ADJ-00024062, 29 March 2021, <https://www.workplacerelations.ie/en/cases/2021/march/adj-00024062.html>.

⁵²⁰ Section 47(4), Disability Act 2005, 8 July 2005, as amended by Section 101 of the Assisted Decision-Making (Capacity) Amendment Act 2022.

reason to the contrary' for not doing so.⁵²¹ The National Disability Authority monitors implementation, but there are no sanctions for failure to reach the quota. In 2024, the latest year for which data is publicly available, 5.4 % of public sector employees reported having a disability.⁵²²

⁵²¹ [Section 47\(4\)](#), Disability Act 2005.

⁵²² See further: <https://nda.ie/monitoring/monitoring/employment-of-persons-with-disabilities-in-the-public-sector/part-5-compliance-reports>.

6 REMEDIES AND ENFORCEMENT

6.1 Judicial and/or administrative procedures (Article 7 Directive 2000/43, Article 9 Directive 2000/78)

a) Available procedures for enforcing the principle of equal treatment

In Ireland, the following procedures exist for enforcing the principle of equal treatment.

The Workplace Relations Commission (WRC) is the primary first instance forum for complaints under EEA, ESA and the Pensions Acts.⁵²³ It operates as a quasi-judicial body. The Director of the WRC assigns an adjudication officer to investigate complaints received. Complainants may represent themselves; costs may not be awarded against either party and the procedure is relatively informal. Provided both parties consent, complaints may be referred instead to the WRC's mediation service.⁵²⁴ Mediation is held in private and agreements reached are not published.

The Labour Court hears appeals in EEA and Pensions Acts cases, while ESA appeals are brought before the Circuit Court. Appeals entail a re-hearing of all matters of fact and law.⁵²⁵ The Labour Court is a quasi-judicial statutory tribunal which, following the enactment of the Workplace Relations Act 2015, became the only appellate tribunal in employment rights disputes. The Circuit Court is a court of local and limited jurisdiction.

Following a CJEU ruling issued in December 2018, the WRC and the Labour Court have jurisdiction to interpret and apply EU law principles that conflict with domestic law.⁵²⁶ Since then, national law has been disapplied in several cases concerning age discrimination. In 2021, the WRC found that a mandatory retirement age for civil servants, set out in law, gave rise to direct discrimination.⁵²⁷ The same legal provision was also disapplied in a 2023 case referred by a university employee.⁵²⁸ In other litigation, two complainants successfully argued that they had been discriminated against when their applications to join An Garda Síochána (the police force) were not processed because of their age.⁵²⁹ Legislation had set 35 as the upper age limit for entry into the force as a trainee. On appeal, the Labour Court upheld the WRC's findings.⁵³⁰ Secondary legislation subsequently raised the recruitment age for the police force to 50.⁵³¹

The WRC has also disapplied a legislative provision that limits compensation to EUR 13 000 where the complainant was not 'in receipt of remuneration at the date of the reference of

⁵²³ The WRC assumed the functions of the Equality Tribunal on 1 October 2015 under the terms of the Workplace Relations Act 2015: Ireland, Workplace Relations Act 2015, 20 May 2015, <http://www.irishstatutebook.ie/eli/2015/act/16/enacted/en/print.html>.

⁵²⁴ Section 39 Workplace Relations Act 2015; Section 78 EEA; Section 24 ESA.

⁵²⁵ Affirmed by the Labour Court in *Public Appointments Service v. Flynn*, EDA1637, 7 December 2016, <https://www.workplacerelations.ie/en/Cases/2016/December/EDA1637.html>.

⁵²⁶ Judgment of 4 December 2018, *Minister for Justice and Equality and The Commissioner of the Garda Síochána v. Workplace Relations Commission*, C-378/17, ECLI:EU:C:2018:979.

⁵²⁷ Workplace Relations Commission, *Geraghty v. The Office of the Revenue Commissioners*, ADJ-00000031, 4 November 2021, <https://www.workplacerelations.ie/en/cases/2021/november/adj-00000031.html>.

⁵²⁸ Workplace Relations Commission, *O'Mahony v. University of Limerick*, ADJ-00031897, 13 January 2023, <https://www.workplacerelations.ie/en/cases/2023/january/adj-00031897.html>.

⁵²⁹ Workplace Relations Commission, *Boyle v. Commissioner of An Garda Síochána and The Minister for Justice Equality and Law Reform*, DEC-E2020-003, 5 October 2020, <https://www.workplacerelations.ie/en/cases/2020/october/dec-e2020-003.html>; *Fitzpatrick v. Commissioner of An Garda Síochána and The Minister for Justice Equality and Law Reform*, DEC-E2020-002, 5 October 2020, <https://www.workplacerelations.ie/en/cases/2020/october/dec-e2020-002.html>.

⁵³⁰ Labour Court, *Commissioner of An Garda Síochána and The Minister for Justice Equality and Law Reform v. Boyle*, EDA234, 25 January 2023, <https://www.workplacerelations.ie/en/cases/2023/february/eda234.html>; *Commissioner of An Garda Síochána and The Minister for Justice Equality and Law Reform v. Fitzpatrick*, EDA233, 25 January 2023, <https://www.workplacerelations.ie/en/cases/2023/february/eda233.html>.

⁵³¹ S.I. No. 611/2023 - Garda Síochána (Admissions and Appointments) (Amendment) Regulations 2023, <https://www.irishstatutebook.ie/eli/2023/si/611/made/en/print>.

the case, or if it was earlier, the date of dismissal.⁵³² The worker was denied reasonable accommodation and unlawfully dismissed on the disability ground. He was on unpaid sick leave and, therefore, not receiving remuneration when dismissed. Having regard to the requirement under Article 17 of Directive 2000/78 that sanctions be effective, proportionate and dissuasive, the WRC awarded compensation instead under the EEA provision that fixes compensation at a maximum of two years' remuneration. The complainant was awarded the maximum possible sum of EUR 67 600.

In a 2024 judgment, the Supreme Court confirmed that a complainant who seeks to challenge the compatibility of a legislative provision with an EU directive can seek declaratory relief in the High Court instead of referring a complaint to the WRC.⁵³³

In relation to access to goods and services, the Intoxicating Liquor Act 2003 transferred jurisdiction for cases alleging discrimination 'on or at the point of entry to licensed premises' to the District Court, a court of local and limited jurisdiction with jurisdiction over a range of criminal and civil matters.⁵³⁴ Its decisions are legally binding.

Determinations of the WRC and Labour Court, as well as mediated settlements, are legally binding.⁵³⁵ In the event of non-compliance, the complainant may bring enforcement proceedings.⁵³⁶ IHREC may provide assistance in such proceedings.⁵³⁷

The procedures apply to employment in the private and public sectors, subject to two exceptions. Members of the Defence Forces must address complaints about discrimination in employment to the authorities before accessing the WRC.⁵³⁸ Complaints of discrimination in recruitment by the holder of a public service recruitment licence, An Garda Síochána (the police service) or the Defence Forces must first be referred to the recruitment authority concerned.⁵³⁹

Discrimination claims are brought before the WRC by way of application using an online form.⁵⁴⁰ No fees are payable. The Director of the WRC is required to publish decisions under ESA and EEA 'on the internet in such form and in such manner' as they consider appropriate.⁵⁴¹ Pursuant to that requirement, the decisions of both the WRC and Labour Court are available for public inspection, as they are published on the WRC website.⁵⁴²

Following a Supreme Court judgment, EEA and ESA were amended in 2021 to provide that WRC investigations shall be held in public, unless 'special circumstances' exist.⁵⁴³ Prior to this change, WRC hearings were conducted in private and adjudication officers frequently exercised their discretion to anonymise one or both parties to a case. The Supreme Court held that WRC proceedings should generally be heard in public to comply with constitutional provisions on the administration of justice.⁵⁴⁴ The WRC has published a guidance note,

⁵³² Workplace Relations Commission, *Geoghegan v. Freightspeed for Pharmacy Ltd (In Liquidation)*, ADJ-00034387, 7 February 2024, <https://www.workplacerelations.ie/en/cases/2024/february/adj-00034387.html>.

⁵³³ Supreme Court of Ireland, *Mallon v. The Minister for Justice, Ireland, and the Attorney General* [2024] IESC 20, 15 May 2024.

⁵³⁴ Intoxicating Liquor Act 2003, 14 July 2003, <http://www.irishstatutebook.ie/eli/2003/act/31/section/19/enacted/en/html#sec19>.

⁵³⁵ Section 91(2) EEA.

⁵³⁶ Section 31 ESA; Section 91 EEA.

⁵³⁷ Section 40 IHRECA.

⁵³⁸ Sections 77(9)–(10) and 104 EEA. Applied in Workplace Relations Commission, *Nolan v. Minister for Defence*, ADJ-00044784, 12 May 2025, <https://www.workplacerelations.ie/en/cases/2025/may/adj-00044784.html>.

⁵³⁹ Section 77(7)–(8) EEA.

⁵⁴⁰ See https://www.workplacerelations.ie/en/Complaints/Disputes/Refer_a_Dispute_Make_a_Complaint/.

⁵⁴¹ Section 89(1) EEA; Section 30(1) ESA.

⁵⁴² See <https://www.workplacerelations.ie/en/search/?advance=true>.

⁵⁴³ Section 12(a), Workplace Relations (Miscellaneous Provisions) Act 2021, amending Section 25 ESA and Section 67 EEA.

⁵⁴⁴ Supreme Court, *Zalewski v. Adjudication Officer and Ors.* [2021] IESC 24, 6 April 2021.

which underlines that the parties to a case may request that the proceedings be conducted in private or that names be anonymised in the published decision, due to the existence of 'special circumstances'.⁵⁴⁵ However, the final decision will rest with the adjudication officer.⁵⁴⁶ The note provides an illustrative list of such circumstances, which include cases involving a minor⁵⁴⁷, a disability or medical condition that a party does not want to be revealed,⁵⁴⁸ sexual harassment or other 'sensitive issues'⁵⁴⁹ or cases where a real risk of harm might result from publicity.⁵⁵⁰ Several cases were anonymised on those bases across 2025.⁵⁵¹ However, it is apparent that the parties' names are now routinely disclosed, whereas the opposite was the case in previous years, especially under the disability ground.⁵⁵² Because the new provision came into effect at the end of July 2021,⁵⁵³ its impact cannot yet be fully assessed. The Minister for Enterprise, Trade and Employment was obliged to commence a review of the operation of the amendment by the end of July 2022 and subsequently to report to the Oireachtas.⁵⁵⁴ That review was based on complaints data analysed by the WRC and consultation with an unspecified number of WRC adjudication officers.⁵⁵⁵ No data was provided on the anonymisation of complaints. The report noted that the 'WRC was not in a position yet to compare complaint withdrawal figures pre and post the enactment' of the legislation.⁵⁵⁶ A sample of 100 complaints withdrawn in 2021 suggested that the legislative change had no material bearing on decisions to withdraw, however a third of that sample recorded no reason for discontinuing and the motivations of those who withdrew because the complaint was 'resolved internally' or 'settled' was also not recorded. The report concluded that given the short time since the commencement of the Act further assessment of its operation in practice would be prudent. No further analyses are in the public domain.

Both District Court and Circuit Court cases are heard in public; it is exceptionally rare for decisions of either court to be published.

⁵⁴⁵ Workplace Relations Commission (2021), [WRC Guidance on Workplace Relations \(Miscellaneous Provisions\) Act 2021](#).

⁵⁴⁶ In a 2025 case, for example, the WRC anonymised the parties' names because the case involved a child, contrary to the wishes of the complainant: Workplace Relations Commission, *Student (minor) v. Secondary School*, ADJ-00054056, 13 May 2025, <https://www.workplacerelations.ie/en/cases/2025/may/adj-00054056.html>.

⁵⁴⁷ See, for example, Workplace Relations Commission, *A Minor (next friend, Mother) v. Board of Management of a Co-Educational Post Primary School*, ADJ-00038804, 3 March 2025, <https://www.workplacerelations.ie/en/cases/2025/march/adj-00038804.html>.

⁵⁴⁸ See, for example, Workplace Relations Commission, *A Senior Manager v. A Restaurant*, ADJ-00044798, 9 September 2025, <https://workplacerelations.ie/en/cases/2025/september/adj-00044798.html>.

⁵⁴⁹ A 2025 decision on the race ground was anonymised because a related matter was the subject of an ongoing criminal investigation: Workplace Relations Commission, *A Worker v. A Company*, ADJ-00053174, 11 March 2025, <https://www.workplacerelations.ie/en/cases/2025/march/adj-00053174.html>. In a case involving a transgender complainant, a hearing was held in private and the parties' names were anonymised: *A Volunteer v. A Voluntary Organisation*, ADJ-00054798, 28 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/adj-00054798.html>.

⁵⁵⁰ A 2022 decision to anonymise appears to fall into this category. The complainant in a disability-ground case requested anonymity on the basis that she had been harassed by a stalker in the past and consequently experienced significant trauma: Workplace Relations Commission, *A Graphic Designer v. A Charity*, ADJ-00033850, 6 July 2022, <https://www.workplacerelations.ie/en/cases/2022/july/adj-00033850.html>.

⁵⁵¹ Some decisions to anonymise do not seem to fall under the illustrative conditions. For instance, on its own initiative, the WRC elicited the parties' views and anonymised a decision because the complainant was actively seeking teaching jobs and was concerned that naming her might impact that endeavour: Workplace Relations Commission, *A Post Primary Teacher v. A Post Primary School*, ADJ-00050384, 23 July 2025, <https://www.workplacerelations.ie/en/cases/2025/july/adj-00050384.html>.

⁵⁵² The author estimates that the parties' names were anonymised in 29.5 % of the EEA disability ground cases determined by the WRC in 2025, compared with 83 % in 2020.

⁵⁵³ Workplace Relations (Miscellaneous Provisions) Act 2021 (Commencement) Order 2021 (S.I. No. 397 of 2021).

⁵⁵⁴ Section 13, Workplace Relations (Miscellaneous Provisions) Act 2021.

⁵⁵⁵ Department of Enterprise, Trade and Employment (2022), [Post Enactment Report Workplace Relations \(Miscellaneous Provisions\) Act 2021](#).

⁵⁵⁶ Department of Enterprise, Trade and Employment (2022), [Post Enactment Report Workplace Relations \(Miscellaneous Provisions\) Act 2021](#), p. 11.

Further avenues of redress for discrimination are provided for under other legislative provisions. For instance, complaints of dismissal due to discrimination may instead be brought under the Unfair Dismissals Acts 1977-2015. Under those Acts, the dismissal of an employee is deemed to be an unfair dismissal if it results wholly or mainly from the employee's age, race, colour or sexual orientation, religious or political opinions, or membership of the Travelling community.⁵⁵⁷ The WRC is also the first instance forum under that legislation.

Discrimination encountered in the course of accessing many public services can be directed to the Office of the Ombudsman,⁵⁵⁸ which oversees an administrative process that examines complaints about decisions, refusals to take action and procedures of public bodies.⁵⁵⁹ Bodies within the remit of the Ombudsman include Government departments and offices, local authorities, the Health Service Executive (HSE), voluntary hospitals and voluntary agencies that provide services on behalf of the HSE and third-level colleges and universities.

The Ombudsman can examine a complaint about an action taken by one of those bodies if someone has been adversely affected and the action was taken without proper authority, if the action was taken on irrelevant grounds, if it was the result of negligence or carelessness, if it was based on incorrect or incomplete information, if it was improperly discriminatory, if it was based on an undesirable administrative practice, or if it was otherwise contrary to fair or sound administration.⁵⁶⁰ The complaints process is conciliatory in nature and no fees are payable. Many complaints are resolved informally and do not result in a written report; an investigation report is drawn up and published in respect of some complaints that are especially complex or have broad implications for public policy. Following an investigation, the Ombudsman may make a general recommendation to the body concerned. Recommendations issued are not legally binding, however. Where it appears to the Ombudsman that the response to a recommendation is not satisfactory, they may make a special report on the matter to the Oireachtas.⁵⁶¹ Two such reports were issued on compliance with provisions of ESA.⁵⁶² In 2021, the Ombudsman published a report criticising the Government's failure to act on its earlier findings.⁵⁶³

b) Barriers and other deterrents faced by litigants seeking redress

EEA, ESA and the Pensions Acts impose a restrictive six-month time limit for bringing complaints to the appropriate body.⁵⁶⁴ That period may be extended to a maximum of 12 months for reasonable cause. In a 2024 case, the Labour Court overturned a finding that a worker was unlawfully dismissed on the age and disability grounds when made redundant following a period of sick leave.⁵⁶⁵ The complaint was submitted three months late and the Court declined to extend the time limit. It did not accept that the complainant, who had

⁵⁵⁷ Section 6(2) Unfair Dismissals Acts 1977-2015.

⁵⁵⁸ Ombudsman Act 1980, 14 July 1980, <http://www.irishstatutebook.ie/eli/1980/act/26/enacted/en/html>.

⁵⁵⁹ See generally: <https://www.ombudsman.ie/>.

⁵⁶⁰ Section 4(2), Ombudsman Act 1980.

⁵⁶¹ Section 6(7), Ombudsman Act 1980.

⁵⁶² Office of the Ombudsman (2011), *Too Old to be Equal?*; Office of the Ombudsman (2012), *Motorised Transport Grant – Report to Dáil and Seanad*.

⁵⁶³ Office of the Ombudsman (2021), [Grounded - Unequal access for people with disabilities to personal transport schemes](https://www.ombudsman.ie/reports-and-publications/grounded-unequal-access-for-people-with-disabilities-to-personal-transport-schemes).

⁵⁶⁴ In two 2019 cases, the Labour Court underlined that the pursuit of an internal grievance does not stop the time limit running: *Pfizer Pharmaceuticals Ireland Ltd. v. Whelan*, EDA1924, 12 July 2019, <https://www.workplacerelations.ie/en/cases/2019/july/eda1924.html>; *Beaumont Hospital v. Kaunda*, EDA1930, 3 September 2019, <https://www.workplacerelations.ie/en/cases/2019/september/eda1930.html>. With respect to ESA, see: *A Patient v. A Hospital*, ADJ-00050404, 27 January 2025, <https://www.workplacerelations.ie/en/cases/2025/january/adj-00050404.html>: pursuing a complaint with the Ombudsman does not stop the ESA time limit.

⁵⁶⁵ Labour Court, *Westar Homes Limited v. Dowling*, EDA2469, 16 December 2024, <https://www.workplacerelations.ie/en/cases/2024/december/eda2469.html>. Overturning the WRC's decision in *A General Operative v. A Building Company*, ADJ-00033679, 4 October 2023, <https://www.workplacerelations.ie/en/cases/2023/september/adj-00033679.html>.

chronic obstructive pulmonary disease (COPD), was precluded from accessing full legal advice due to concerns about contracting COVID-19.

Additionally, ESA requires a complainant to initiate a complaint by notifying the respondent in writing, within two months of the date of the occurrence of the incident (or the date of the last occurrence if relevant), of the nature of the allegation *and* of their intention to seek redress under ESA.⁵⁶⁶ The notification period may be extended for a further two months if the WRC is satisfied that reasonable cause prevented the complainant from sending the notification within the normal time period.⁵⁶⁷ 'Exceptionally', the notification requirement may be disapplied.⁵⁶⁸ This presents difficulties for complainants, as evidenced by the fact that a substantial number of complaints are dismissed annually at hearing stage for failure to comply with the notification requirement.⁵⁶⁹ No data is available about complaints that were not pursued when prospective complainants became aware of the notification requirement.

Complaints of discrimination occurring 'on or at the point of entry to licensed premises' must be brought to the District Court instead of the WRC. The major impact of this amendment, effected under Section 19 of the Intoxicating Liquor Act 2003, is the cost implications for complainants as well as the complexity of the legal proceedings.⁵⁷⁰ Under the WRC system it is possible to represent oneself and costs cannot be awarded against either complainant or respondent; this is not the case at the District Court. Moreover, the system generates confusion in practice; several complaints have been, and continue to be, lodged before the incorrect forum. In 2024, 12 complaints of discrimination on the Traveller community ground and one on the disability ground were dismissed by the WRC because it did not have jurisdiction.⁵⁷¹ A further case was dismissed for the same reason in 2025.⁵⁷²

Licensed premises include, most obviously, pubs, but also off-licences, hotels and many restaurants. Considerable uncertainty as to which premises, or parts of premises, are covered has emerged in Equality Tribunal and subsequently WRC decisions.⁵⁷³ For instance, two cases supported by IHREC were struck out by the District Court, yet in parallel WRC proceedings it transpired that the impugned treatment had occurred on a licensed premises and so apparently should have proceeded before the Court.⁵⁷⁴

⁵⁶⁶ Section 21(2) ESA.

⁵⁶⁷ Section 21(3)(a)(i) ESA. See, for example, Workplace Relations Commission, *Cherek v. Ding*, ADJ-00047455, 8 October 2025, <https://www.workplacerelations.ie/en/cases/2025/october/adj-00047455.html> (notification period extended to four months because complainant was homeless at the material time).

⁵⁶⁸ Section 21(3)(a)(ii) ESA. As noted in previous annual reports, application of this provision is rare. The author has identified eight cases in which the notification requirement was dispensed with from the enactment of ESA until 2022. Unusually, the requirement was disapplied seven times in 2023. The WRC also disapplied the requirement in one 2024 case involving a complainant with several disabilities, whose child had autism and 'complex needs': *A Parent v. An Educational Service Provider*, ADJ-00047740, 18 November 2024, <https://www.workplacerelations.ie/en/cases/2024/november/adj-00047740.html>. The requirement was waived in three 2025 cases – for example, *Mangan v. Saffron & Blue Medical Clinic*, ADJ-00043910, 3 July 2025, <https://www.workplacerelations.ie/en/cases/2025/adj-00043910.html>.

⁵⁶⁹ Twelve complaints were dismissed, in whole or in part, for failure to comply with the notification requirement in 2025, according to the author's analysis of the WRC's case law database.

⁵⁷⁰ Fennelly, D. (2012), *Selected issues in Irish equality case law 2008 – 2011*, pp. 106–7.

⁵⁷¹ See further: European Commission, Directorate-General for Justice and Consumers, Human European Consultancy, Migration Policy Group, Universiteit Utrecht and Walsh, J. (2025), *Country report: non-discrimination: Ireland 2025*, Luxembourg, Publications Office of the European Union, p. 90.

⁵⁷² The ground was not specified in that decision: Workplace Relations Commission, *Joyce v. Commiskey's Bar and Restaurant, Blackhorse Ave*, ADJ-00053755, 10 February 2025, <https://www.workplacerelations.ie/en/cases/2025/february/adj-00053755.html>.

⁵⁷³ See Irish Human Rights and Equality Commission (2022), *Report of a review of Section 19 of the Intoxicating Liquor Act 2005 carried out pursuant to Section 30 of the Irish Human Rights and Equality Commission Act 2014*.

⁵⁷⁴ Workplace Relations Commission, *Stokes v. Murtagh Bars Limited*, ADJ-00036951, 5 May 2023, <https://www.workplacerelations.ie/en/cases/2023/may/adj-00036951.html>; *Mongan v. Murtagh Bars Limited*, ADJ-00037889, 9 May 2023, <https://www.workplacerelations.ie/en/cases/2023/may/adj-00037889.html>.

International human rights bodies have consistently raised concerns about the impact of the provision on access to justice, particularly for the Traveller community.⁵⁷⁵ The national equality body conducted a review of Section 19, which was transmitted to the Minister in 2022.⁵⁷⁶ A further review of the same provision was published in 2025.⁵⁷⁷ IHREC concludes that Section 19 undermines EU equality law provisions since it does not provide for a shift in the burden of proof, as mandated by the Racial Equality Directive and the Gender Goods and Services Directive. A complainant unsuccessfully sought a ruling that the reversed burden of proof was applicable prior to the hearing of his substantive complaint before the District Court. He challenged that decision in judicial review proceedings but was denied relief on the basis that he had abandoned the case prior to its determination.⁵⁷⁸ IHREC's reviews of Section 19 also highlight potential compliance issues with the principle of effectiveness. In 2025, the Commission reiterated its previous call on the Government to take urgent steps to bring claims about licensed premises within the jurisdiction of the WRC. The proposed legislative changes arising from the Government's review of equality law include such a measure, but it remains to be seen whether that change will be enacted (see Section 8.2(a)).

While there is no potential for awards of costs against either party in the WRC, this is not the position regarding proceedings before the District Court or the Circuit Court.⁵⁷⁹

There is no provision under the legislation for a body (other than IHREC) to instigate complaints, which limits the potential of the equality legislation.

c) Number of discrimination cases brought to justice

In Ireland, statistics on the number of court cases related to discrimination brought to justice are not available.

As outlined in Section 6.1(a), the regular court system plays a limited role in the adjudication of discrimination complaints. Courts determine appeals of decisions issued by either the WRC or the Labour Court, both of which are quasi-judicial bodies. The District Court determines cases concerning discrimination regarding licensed premises at first instance. The Courts Service of Ireland publishes statistics on the cases processed by the courts each year but does not provide data on discrimination cases.⁵⁸⁰

d) Registration of national court decisions on discrimination cases

In Ireland, court decisions on discrimination are not registered as such by national courts.

The Courts Service of Ireland registers and publishes the number of cases processed by the courts each year but does not provide figures for discrimination cases.⁵⁸¹ Many judgments of the superior courts (the High Court, the Court of Appeal and the Supreme Court) are published online, as are some Circuit Court judgments.⁵⁸² Judgments of the District Court are not available to the public.

⁵⁷⁵ See, for example, European Commission against Racism and Intolerance (2019), *ECRI report on Ireland (fifth monitoring cycle)*, [CRI\(2019\)18](#).

⁵⁷⁶ Irish Human Rights and Equality Commission (2022), *Report of a review of Section 19 of the Intoxicating Liquor Act 2005 carried out pursuant to Section 30 of the Irish Human Rights and Equality Commission Act 2014*.

⁵⁷⁷ Irish Human Rights and Equality Commission (2025), *Review of Section 19 of the Intoxicating Liquor Act: Second Review under Section 30 of the Irish Human Rights and Equality Commission Act 2014*.

⁵⁷⁸ High Court, *Connors v. Feshea & Ors* [2024] IEHC 431, 12 July 2024.

⁵⁷⁹ Appeals from the Labour Court, gender ground cases and applications for enforcement orders may be heard in the Circuit Court.

⁵⁸⁰ See: Courts Service (2025), *Annual report 2024*.

⁵⁸¹ See: Courts Service (2025), *Annual report 2024*.

⁵⁸² A case law database is maintained by the Courts Service. See <https://www2.courts.ie/Judgments>.

6.2 Legal standing and associations (Article 7(2) Directive 2000/43, Article 9(2) Directive 2000/78)

a) Engaging in proceedings on behalf of victims of discrimination (representing them)

In Ireland, associations, organisations and trade unions are entitled to act on behalf of victims of discrimination.

Organisations, trade unions or associations may represent complainants before the WRC and the Labour Court (as may any person authorised by the complainant).⁵⁸³ Only qualified lawyers have the right to represent litigants before the civil courts.⁵⁸⁴ Advocates such as officials from trade unions, organisations or associations may provide limited assistance to lay litigants with the permission of the court.⁵⁸⁵ No organisation apart from IHREC may commence own-name proceedings on behalf of victims of discrimination.

b) Engaging in proceedings in support of victims of discrimination (joining existing proceedings)

In Ireland, associations, organisations and trade unions may apply to act in support of victims of discrimination.

During an investigation, if the Director General of the WRC considers it appropriate, they may 'hear persons appearing to the Director to be interested'.⁵⁸⁶ Consequently, interested third parties may be authorised to participate in proceedings by making submissions on relevant matters. To date, this has occurred very rarely and always, apparently, at the request of complainants, with representatives of civil society bodies appearing as expert witnesses. Representatives of the Irish Traveller Movement (a human rights organisation), for example, have provided expert testimony for complainants on the difficulties experienced by Travellers in gaining access to services and on other matters.⁵⁸⁷ In a 2022 case concerning racial abuse of prison staff, experts on, inter alia, racism and penal policy were called as witnesses for the complainant.⁵⁸⁸

There is no equivalent provision that would enable associations to join proceedings in support of discrimination victims before the ordinary courts.

c) Submitting observations, e.g. *amicus curiae* briefs/letters

In Ireland, associations, organisations and trade unions are entitled to submit observations to courts or other adjudicating bodies, such as *amicus curiae* briefs, in discrimination cases.

As noted above, the Director General of the WRC has the discretion to hear from interested persons during an investigation of a discrimination complaint.⁵⁸⁹ However, there are no

⁵⁸³ Section 77(11) EEA and Section 25A ESA. A party cannot object to the other side's choice of representative: Workplace Relations Commission, *Holmes v. National Women's Council of Ireland*, ADJ-00040678, 27 October 2023, <https://www.workplacerelations.ie/en/cases/2023/october/adj-00040678.html>.

⁵⁸⁴ See, for example, Ireland, Order 6 of the District Court Rules, S.I. No. 93/1997 - District Court Rules, 1997, 1 May 1997, <http://www.irishstatutebook.ie/eli/1997/si/93/made/en/print>.

⁵⁸⁵ See further the High Court judgment in *Tougher v. Tougher's Oil Distributors Ltd. (No. 1)* [2014] IEHC 254, 15 May 2014.

⁵⁸⁶ Section 25(1) ESA; Section 79(1) EEA.

⁵⁸⁷ See, for example, Equality Tribunal, *Reilly v. The Licensee, the Foxhunter Pub, Lucan, Dublin*, DEC-S2003-026, 17 April 2003, <https://www.workplacerelations.ie/en/cases/2003/april/dec-s2003-026-full-case-report.html>; Equality Tribunal, *Sweeney v. Saehan Media Ireland Ltd.*, DEC-E2003-017, 1 May 2003, https://www.workplacerelations.ie/en/cases/2003/may/dec-e2003-017_full_case_report.html.

⁵⁸⁸ Labour Court, *The Minister for Justice and Equality v. Onyemekeihia*, EDA2217, 20 July 2022, <https://www.workplacerelations.ie/en/cases/2022/july/eda2217.html>.

⁵⁸⁹ Section 25(1) ESA; Section 79(1) EEA.

rules of procedure or other form of guidance regarding this process.⁵⁹⁰ It should enable civil society organisations to submit observations without being requested to do so by either party. However, since there is no facility for doing so, to date civil society organisations have only participated in WRC proceedings by providing expert testimony (as mentioned in section 6.2(b)).

Intervention in an *amicus curiae* capacity before the ordinary courts is theoretically possible⁵⁹¹ but has not occurred to date in an equality law case.

d) *Actio popularis*

In Ireland, national law does not allow associations, organisations or trade unions to act in the public interest on their own behalf, without a specific victim to support or represent (*actio popularis*).

Civil society organisations have long sought the extension of standing under EEA and ESA to NGOs and trade unions.⁵⁹² The matter has not been considered by Parliament, however.

In the fields of constitutional law and judicial review, courts have developed the general principles on legal standing significantly over the past decades. However, just one case to date recognises an organisation's right to bring an *actio popularis*.⁵⁹³ In *Digital Rights Ireland Ltd. v Minister for Communications*,⁵⁹⁴ the High Court held that an NGO that had incorporated as a limited company had *locus standi* to assert its own rights and also to bring an *actio popularis* in challenging legislation on data retention that could potentially affect the entire population. Standing was granted on the basis, inter alia, that 'it would be an effective way to bring the action – individual owners of mobile phones would be unlikely to litigate the matter'.

In a 2020 judgment, the Supreme Court declined to grant an environmental NGO legal standing to challenge a statutory plan aimed at addressing climate change.⁵⁹⁵ It considered that constitutional actions by parties whose personal rights are not directly impacted can only be brought in exceptional circumstances where refusing standing would make the enforcement of important rights either impossible or excessively difficult.

e) Class action

In Ireland, national law does not allow associations, organisations or trade unions to act in the interest of more than one individual victim (class action) for claims arising from the same event.

When the WRC receives multiple complaints under either EEA or ESA arising from the same event, it may convene a meeting with the parties prior to the hearing with a view to

⁵⁹⁰ The WRC guidance on procedures in equality cases does not refer to the process: Workplace Relations Commission (2025), [WRC procedures in the adjudication and investigation of all employment and equality complaints and disputes](#).

⁵⁹¹ Courts have an inherent jurisdiction to permit such intervention. See further: Whyte, G. and Casey, C. (2025), *Social inclusion and the legal system: Public interest law in Ireland*, 3rd edition, Dublin, Clarus Press, pp. 221–229.

⁵⁹² See, for example, Crowley, N. (2011), [A roadmap to a strengthened equality and human rights infrastructure in Ireland](#); Free Legal Advice Centres (FLAC) (2021), [FLAC submission to the Department of Children, Equality, Disability, Integration and Youth's Consultation on the Review of the Equality Acts](#).

⁵⁹³ See further: Whyte, G. and Casey, C. (2025), *Social inclusion and the legal system: Public interest law in Ireland*, 3rd edition, Dublin, Clarus Press, pp. 188–214.

⁵⁹⁴ High Court, [Digital Rights Ireland Ltd. v. Minister for Communications](#) [2010] IEHC 221, 5 May 2010, Para. 91.

⁵⁹⁵ Supreme Court, [Friends of the Irish Environment v. Ireland](#) [2020] IESC 49, 31 July 2020.

investigating the claims as a single grouped case.⁵⁹⁶ This practice is adopted as a matter of administrative convenience and is not a class action.⁵⁹⁷ In a grouped case, each person involved must refer a complaint, and a decision is issued in respect of every complaint.⁵⁹⁸

6.3 Burden of proof (Article 8 Directive 2000/43, Article 10 Directive 2000/78)

In Ireland, national law requires a shift of the burden of proof from the complainant to the respondent.

Section 85(A)(1) EEA provides: 'Where in any proceedings facts are established by or on behalf of a complainant from which it may be presumed that there has been discrimination in relation to him or her, it is for the respondent to prove the contrary.' An identical provision governs cases under ESA.⁵⁹⁹ This also applies to cases brought by IHREC.⁶⁰⁰

The EEA provision expressly includes proceedings relating to direct and indirect discrimination, instructions to discriminate, victimisation and harassment, but not reasonable accommodation. However, in practice, adjudicators shift the burden of proof once a prima facie case has been established.⁶⁰¹

The Labour Court has held that a requirement to be competent in a particular language is prima facie indirectly discriminatory on grounds of race, as it is likely to place persons whose native language is other than the required language at a disadvantage relative to persons whose native language is the required language.⁶⁰²

6.4 Victimisation (Article 9 Directive 2000/43, Article 11 Directive 2000/78)

In Ireland, there are legal measures of protection against victimisation.

Section 74(2) EEA prohibits victimisation, which is deemed to occur where a person is dismissed or any other adverse treatment occurs because they have undertaken any of the following activities: they have made a complaint of discrimination, they have been a complainant in proceedings,⁶⁰³ they are an employee who has represented or otherwise supported a complainant, they have been a comparator in an equality action, they have been a witness in proceedings under EEA or ESA, they have opposed a discriminatory act by lawful means, or they have stated an intention to take any of the preceding actions. Protection from victimisation applies even after the employment relationship has ended.⁶⁰⁴

Victimisation complaints may only be referred against the complainant's employer. In *Association of Secondary Teachers, Ireland v. Dunbar*, the Labour Court determined that

⁵⁹⁶ See, for example, Equality Tribunal, *McCann, Collins and 31 others v. Eircom Ltd.*, DEC-S2003-076/108, 12 September 2003, https://www.workplacerelations.ie/en/Cases/2003/September/DEC-S2003-076-108_Full_Case_Report.html; *Johnson and sixty-five others v. Tesco Ireland Limited*, DEC-E2001-024, 10 August 2001, <https://www.workplacerelations.ie/en/Cases/2001/August/DEC-E2001-024.html>.

⁵⁹⁷ The High Court ruled out use of class actions in the employment case of *Verbatim Ltd. v. Duffy and others* [1994] ELR 159.

⁵⁹⁸ See, for example, Equality Tribunal, *58 Named Complainants v. Goode Concrete Limited*, DEC-E2008-020, 30 April 2008, <https://www.workplacerelations.ie/en/cases/2008/april/dec-e2008-020-full-case-report.html>.

⁵⁹⁹ Section 38(A)(1) ESA.

⁶⁰⁰ Section 85(A)(3) EEA; Section 38(A)(2) ESA.

⁶⁰¹ See, for example, Labour Court, *Public Appointments Service v. Flynn*, EDA1637, 7 December 2016, <https://www.workplacerelations.ie/en/Cases/2016/December/EDA1637.html>.

⁶⁰² Labour Court, *Noonan Services Ltd. v. A Worker*, EDA1126, 29 July 2011, <https://www.workplacerelations.ie/en/Cases/2011/July/EDA1126.html>; *Aer Lingus v. Kacmarek, Turczyk and Wilczkiew*, EDA1712, 8 May 2017, <https://www.workplacerelations.ie/en/Cases/2017/May/EDA1712.html>.

⁶⁰³ The 'proceedings' referenced under Section 74(2)(b) must be EEA proceedings. See, for example, Workplace Relations Commission, *General Operative v. A Steel and Metal Galvaniser*, ADJ-00030217, 2 February 2022, <https://www.workplacerelations.ie/en/cases/2022/february/adj-00030217.html>.

⁶⁰⁴ Workplace Relations Commission, *Complainant v. Respondent*, ADJ-00022596, 23 March 2020, <https://www.workplacerelations.ie/en/cases/2020/march/adj-00022596.html>; applying Judgment of 22 September 1998, *Coote v. Granada Hospitality Ltd*, *Case C-185/97*, ECLI:EU:C:1998:424.

on the 'plain and ordinary meaning' of Section 74(2), it applies only to dismissal or other adverse treatment of an employee by their employer.⁶⁰⁵ The complainant, therefore, had no cause of action against a trade union.

Complaints of victimisation must be brought within six months of the most recent occurrence of the act.⁶⁰⁶ This may be extended to a maximum of 12 months for 'reasonable cause'.⁶⁰⁷ The form of redress available is the same as that for discrimination claims, being a compensation award or an order that the employer take a specified course of action.⁶⁰⁸ Adjudicators consistently reiterate that victimisation is a serious matter and successful cases tend to result in significant compensation awards.⁶⁰⁹

In two instances, victimisation may amount to a criminal offence: where a person procures or attempts to procure another person to do anything that constitutes victimisation⁶¹⁰ or where an employee is dismissed in circumstances amounting to victimisation.⁶¹¹

Victimisation is also prohibited under ESA. As with EEA, protection extends to people other than the complainant. Section 3(2)(j) applies where a person has in good faith applied for redress under the Act, has been a witness, has given evidence in criminal proceedings under the Act, has opposed by lawful means discriminatory acts, or has given notice of an intention to take any of the preceding actions.⁶¹²

6.5 Sanctions and remedies (Article 15 Directive 2000/43, Article 17 Directive 2000/78)

a) Applicable sanctions in cases of discrimination – in law and in practice

Section 82 EEA provides for a broad range of remedies that are equally applicable with respect to private and public employment: compensation awards, orders for employers to take specific courses of action, an order for equal treatment in whatever respect is relevant to the case, and reinstatement or re-engagement. The same sanctions regime applies to all discrimination grounds covered by this report, irrespective of whether an EEA complaint is determined by the WRC, the Labour Court, or a regular court.⁶¹³

In the area of goods and services, Section 27 ESA provides for the remedies of compensation and orders that a certain course of action be followed. A successful discrimination case taken against licensed premises before the District Court may attract a compensation award. The judge may also order the licensee to take 'a course of action' and has an additional power, not enjoyed by the WRC, to make an order for temporary

⁶⁰⁵ Labour Court, EDA2811, 25 August 2011, <https://www.workplacerelations.ie/en/cases/2011/august/eda1128.html>.

⁶⁰⁶ Section 77(5)(a) EEA.

⁶⁰⁷ Section 77(5)(b) EEA.

⁶⁰⁸ Section 82 EEA.

⁶⁰⁹ The Labour Court increased an award of compensation for victimisation from EUR 8 000 to EUR 20 000 in *Holden Plant Rentals Ltd v. Vereker*, EDA221, 21 February 2022, <https://www.workplacerelations.ie/en/cases/2022/february/eda221.html>. In so doing the Court cited the principles set out by the CJEU in Judgment of 10 April 1984, *von Colson and Kamann v. Land Nordrhein-Westfalen*, Case 14/83, ECLI:EU:C:1984:153. EUR 40 000 was awarded to a complainant who was dismissed after he had provided information to the WRC in the context of EEA proceedings: Labour Court, *Derby Transport Limited v. Sirbu*, EDA2531, 28 March 2025, <https://www.workplacerelations.ie/en/cases/2025/april/eda2531.html>.

⁶¹⁰ Section 14 EEA.

⁶¹¹ Section 98 EEA.

⁶¹² See, for example, Workplace Relations Commission, *Mangan v. Saffron & Blue Medical Clinic*, ADJ-00043910, 3 July 2025, <https://www.workplacerelations.ie/en/cases/2025/adj-00043910.html>: the complainant was removed as a patient following the pursuit of a disability discrimination complaint against a medical practice, resulting in an award of EUR 10 000 compensation.

⁶¹³ Gender-ground claims are treated exceptionally under EEA. A complainant can opt to commence proceedings before the Circuit Court instead of the WRC; no compensation ceiling is applicable in such cases: Section 82(3) EEA. Moreover, interest may be awarded only in gender-ground cases under Section 82(5) EEA.

closure of the premises.⁶¹⁴ In all other ESA cases, the same sanctions regime applies to all discrimination grounds covered by this report, irrespective of whether a complaint is determined by the WRC or by a regular court on appeal.⁶¹⁵

A limited range of criminal sanctions can be imposed under EEA and ESA: where a person procures another to do anything that could be considered victimisation or discrimination,⁶¹⁶ where victimisation amounts to dismissal,⁶¹⁷ or in a range of circumstances concerning obstruction of the Workplace Relations Commission or of IHREC in conducting inquiries.⁶¹⁸

i Preventive and socio-preventive sanctions, such as injunctions or structural injunctions

National legislation does not provide for injunctions or structural injunctions as such.⁶¹⁹ However, the 'course of action' remedy is used relatively frequently by the WRC to direct respondents in both EEA and ESA cases to discontinue discriminatory policies and practices and/or to take measures aimed at securing compliance with the non-discrimination law in the future, such as adopting an equality policy or training staff. Such orders might be described as preventive sanctions. According to the author's analysis of the WRC decisions issued in 2025, courses of action were issued in nine (22.5 %) of the successful EEA cases on the grounds covered by this report. The most common orders were directions to provide staff training on equality law (two cases),⁶²⁰ to revise discriminatory policies (three cases),⁶²¹ or a combination of both (two cases).⁶²² Respondents in two disability-ground cases were directed to provide reasonable accommodation to a complainant,⁶²³ and to carry out a risk assessment when promotional opportunities arose for an individual worker.⁶²⁴ A course of action was issued in one of the six ESA complaints upheld by the WRC on the Traveller community or race grounds in 2025. In that case, a Portuguese national was misinformed about his right to vote in local elections, and the respondent was directed to post signage with information about voting rights queries at polling stations.⁶²⁵ Data is not available on cases determined by courts.

⁶¹⁴ Section 19(3), Intoxicating Liquor Act 2003. Where an order has been made under Subsection (3), any person may make an objection, related to the prohibited conduct concerned, to the renewal of the licence: Intoxicating Liquor Act 2003, Section 19(10).

⁶¹⁵ Gender-ground claims are treated exceptionally under ESA. A complainant can opt to commence proceedings before the Circuit Court instead of the WRC; no compensation ceiling is applicable in such cases: Section 27(5) ESA.

⁶¹⁶ Section 14 EEA; Section 13 ESA.

⁶¹⁷ Section 98 EEA.

⁶¹⁸ See, for example, Section 60(3) EEA; Section 37(1) ESA.

⁶¹⁹ According to case law, interim injunctions restraining alleged breaches of non-discrimination law pending full hearings of substantive cases are not contemplated by EEA and cannot be granted by the WRC or the Labour Court. While the High Court may exercise its inherent jurisdiction to grant an interim injunction, it will do so only in 'exceptional' cases: High Court, *Ronan v. Commissioner of an Garda Síochána & Ors* [2025] IEHC 79, 14 February 2025.

⁶²⁰ For example, Workplace Relations Commission, *O'Connor v. Ballymaley Stores Limited*, ADJ-00052755, 19 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/adj-00052755.html> (summarised in Section 12.2).

⁶²¹ For example, Workplace Relations Commission, *Gvazdauskas v. Health Service Executive*, ADJ-00042605, 11 December 2025, <https://www.workplacerelations.ie/en/cases/2025/december/adj-00042605.html> (summarised in Section 12.2).

⁶²² For example, Workplace Relations Commission, *Nevin v. Cpf (Profiles) Ltd. Cpf (Profiles) Ltd.*, ADJ-00054368, 25 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/adj-00054368.html> (summarised in Section 12.2).

⁶²³ Workplace Relations Commission, *Dempsey v. Irish Prison Service*, ADJ-00043513, 24 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj-00043513.html>.

⁶²⁴ Workplace Relations Commission, *An Employee v. A Detention Facility*, ADJ-00038087, 19 September 2025, <https://www.workplacerelations.ie/en/cases/2025/september/adj-00038087.html>.

⁶²⁵ Workplace Relations Commission, *Garcia da Silva v. The Returning Officer for Galway County*, ADJ-00055907, 26 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj-00055907.html>.

ii Sanctions specific for cases of collective redress (*actio popularis* or class actions)

Irish non-discrimination law does not provide for collective redress. There is no class action procedure. IHREC is the only entity permitted to instigate litigation under ESA and EEA,⁶²⁶ but compensation orders may not be made in its favour, raising compliance issues with the directives (see Section 6.5(c)).⁶²⁷ Some of its litigation powers might be described as a form of *actio popularis* (see Section 7.7). In the only such decision to date, the WRC directed the respondent to refrain from publishing discriminatory advertisements on its website and to develop a method of identifying, monitoring and blocking the publication of such material.⁶²⁸

iii Sanctions to deal with cases of mass discrimination, particularly as a result of the use of AI or automated systems

There is no provision under Irish non-discrimination law concerning cases of mass discrimination.

b) Pecuniary sanctions – maximum and average amounts

There are maximum limits on the pecuniary sanctions that can be awarded. In the context of employment, the limits are EUR 40 000 or a maximum of two years' pay, calculated on the basis of the complainant's weekly pay at the time the case was referred (whichever is greater).⁶²⁹ The maximum permissible award was made in a 2025 case involving 'very serious' discrimination directed at a Chinese national.⁶³⁰ Where the complainant was not 'in receipt of remuneration' (in the case of a discriminatory interview, for example) the maximum award is EUR 13 000.⁶³¹ In unequal pay cases, compensation may be awarded in the form of pay arrears, up to a maximum of three years prior to the referral of the case.⁶³² There is no provision for the payment of interest.⁶³³

The maximum award payable under ESA is linked to monetary limits on the jurisdiction of the District Court and is currently set at EUR 15 000.⁶³⁴ In a 2019 race-ground case, the maximum amount was awarded because of the 'serious and ongoing nature of the abuse and harassment' directed at a tenant.⁶³⁵

A successful discrimination case taken against licensed premises before the District Court may attract a maximum award of EUR 15 000.⁶³⁶

The WRC published data on compensation awards under EEA and ESA for the first time in 2021.⁶³⁷ It records that in 2020 the average award under ESA was EUR 5 373, and EUR 19 754 for EEA cases. More recent data is unavailable.

⁶²⁶ Section 85 EEA; Section 23 ESA.

⁶²⁷ Section 82(6) EEA; 27(4) ESA.

⁶²⁸ Workplace Relations Commission, *Irish Human Rights and Equality Commission v. Daft Media Limited t/a Daft.ie*, ADJ-00005960, 6 August 2019, <https://www.workplacerelations.ie/en/cases/2019/august/adj-00005960.html>.

⁶²⁹ Section 82(4) EEA.

⁶³⁰ Workplace Relations Commission, *Gao v. Eskimo Gao Ming Limited Lam's Asian Cuisine and Eskimo Pizza*, ADJ-00053911, 10 October 2025, <https://www.workplacerelations.ie/en/cases/2025/october/adj-00053911.html> (summarised in Section 12.2).

⁶³¹ Section 82(4)(b) EEA.

⁶³² Section 82(1)(a) EEA.

⁶³³ Interest may be awarded only in gender-ground cases as provided for under Section 82(5) EEA; applied in Equality Tribunal, *O'Brien v. Persian Properties*, DEC-E2012-010, 6 February 2012, <https://www.workplacerelations.ie/en/Cases/2012/February/DEC-E2012-010-Full-Case-Report.html>.

⁶³⁴ Section 27(2) ESA.

⁶³⁵ Workplace Relations Commission, *Nkikita v. Fleming*, ADJ-00020830, 4 December 2019, <https://www.workplacerelations.ie/en/cases/2019/december/adj-00020830.html>.

⁶³⁶ Section 19(4), Intoxicating Liquor Act 2003.

⁶³⁷ Workplace Relations Commission (2021), [Review of WRC decisions and recommendations January–December 2020](#).

c) Assessment of the sanctions

The primary compliance issue pertains to the compensation ceilings. Claims under the gender ground are treated exceptionally; they can be taken directly to the Circuit Court and can attract higher compensation awards, since no monetary limit is applicable.⁶³⁸ It is questionable whether the remedies available in the context of non-gender-ground discrimination could generally be described as 'effective, proportionate and dissuasive' sanctions. A cap of EUR 13 000 applies at the access or recruitment stage. Moreover, a 2024 decision highlighted that some complainants who had been employed by the respondent may not have been in 'receipt of remuneration' at the time of the referral of the case or when dismissed. Consequently, a complainant who was on unpaid sick leave was also subject to the EUR 13 000 compensation cap.⁶³⁹ As noted above, that provision was disapplied to secure compliance with the Employment Equality Directive (see Section 6.1(a)). The ceiling of EUR 15 000 under ESA may be inadequate for particularly egregious violations of the law in situations such as discriminatory denial of access to education.⁶⁴⁰ Interest is not payable on compensation awards under ESA or for non-gender-ground EEA cases. Moreover, the general compensation limits apply even where a case of discrimination has been made out on several grounds or in cases of established discrimination as well as harassment.⁶⁴¹

IHREC is the only independent body permitted to instigate litigation under ESA and EEA,⁶⁴² but compensation orders may not be made in its favour.⁶⁴³ This arguably raises a compliance issue, since the CJEU has found that national rules on sanctions implementing the Racial Equality Directive must be effective, proportionate and dissuasive, even where there is no identifiable victim.⁶⁴⁴

It seems that the offence provisions of the two sets of acts have never been invoked.

Equality laws also provide for non-financial sanctions, which bolster their effectiveness since the remedy can be tailored to the particular circumstances of the complaint and can also generate significant effects beyond the immediate case.⁶⁴⁵ Adjudicators have used this power to order persons to take a specified course of action⁶⁴⁶ as a means of ensuring that respondents in ESA cases create an equal opportunities policy,⁶⁴⁷ retrain staff,⁶⁴⁸ put in place complaints mechanisms for customers,⁶⁴⁹ revise discriminatory policies⁶⁵⁰ and display

⁶³⁸ Section 77(3) and Section 82(3) Employment Equality Act.

⁶³⁹ Workplace Relations Commission, *Geoghegan v. FreightSpeed for Pharmacy Ltd (In Liquidation)*, ADJ-00034387, 7 February 2024, <https://www.workplacerelations.ie/en/cases/2024/february/adj-00034387.html>.

⁶⁴⁰ In a 2017 case concerning the housing assistance ground, the adjudication officer commented as follows: 'I am constrained by the maximum award of EUR 15 000 which by virtue of Section 27(2) is fixed at the maximum District Court civil jurisdiction, and in my view does not reflect the seriousness of the discrimination': Workplace Relations Commission, *Tenant C v. A Landlord*, ADJ-00004705, 9 August 2017, <https://www.workplacerelations.ie/en/Cases/2017/August/ADJ-00004705.html>.

⁶⁴¹ Section 27(3) ESA; Section 82(6)(a) EEA.

⁶⁴² Section 85 EEA; Section 23 ESA.

⁶⁴³ Section 82(6) EEA; 27(4) ESA.

⁶⁴⁴ Judgment of 10 July 2008, *Centrum voor gelijkheid van kansen en voor racismebestrijding v. Firma Feryn NV*, C-54/07, ECLI:EU:C:2008:397.

⁶⁴⁵ Fennelly, D. (2012), *Selected issues in Irish equality case law 2008–2011*, pp. 27–29.

⁶⁴⁶ Section 82(1)(e) EEA; Section 27(1)(b) ESA.

⁶⁴⁷ See, for example, Workplace Relations Commission, *O'Donovan v. Oriel House Hotel Limited t/a Oriel House Hotel*, ADJ-00036524, 25 October 2023, <https://www.workplacerelations.ie/en/cases/2023/october/adj-00036524.html>.

⁶⁴⁸ See, for example, Workplace Relations Commission, *Lane v. Avantcard DAC Avant Money*, ADJ-00033574, 13 June 2023, <https://www.workplacerelations.ie/en/cases/2023/june/adj-00033574.html>.

⁶⁴⁹ See, for example, Workplace Relations Commission, *Asari v. XYZ Retail Ltd*, ADJ-00039460, 13 February 2023, <https://www.workplacerelations.ie/en/cases/2023/february/adj-00039460.html>.

⁶⁵⁰ See, for example, Workplace Relations Commission, *Kalinova v. Bellerophon Ltd Trading as Griffith College*, ADJ-00031408, 29 June 2023, <https://www.workplacerelations.ie/en/cases/2023/june/adj-00031408.html>; *Cantwell v. Bus Eireann*, ADJ-00039907, 4 July 2023, <https://www.workplacerelations.ie/en/cases/2023/july/adj-00039907.html>; *A Complainant v. A Hotel*, ADJ-00038014, 18 July 2023, <https://www.workplacerelations.ie/en/cases/2023/july/adj-00038014.html>.

notices about customers' rights.⁶⁵¹ Employers have been directed to put in place pathways for discrimination complaints,⁶⁵² to revise staff handbooks and training⁶⁵³ and to review recruitment⁶⁵⁴ and other employment procedures.⁶⁵⁵

d) Enforcement and monitoring of the implementation of sanctions

i Courts and other adjudicating bodies' mechanisms to monitor or enforce their decisions

There is no system in place for monitoring compliance with WRC or Labour Court orders. Perhaps cognisant of this deficit in the legal framework, WRC adjudication officers have on occasion requested respondents to report on compliance through two avenues. First, the WRC has used its broad remedial power to order a 'course of action', to direct respondents to report to IHREC on compliance within a given timeframe.⁶⁵⁶ There is no information in the public domain as to how such orders operate in practice and IHREC has no explicit statutory function in this regard. Second, the WRC has directed respondents to report either to WRC's advisory division on compliance, or to the adjudication officer who decided the case.⁶⁵⁷ Again, no information is in the public domain as to how these orders operate in practice.

If a WRC or Labour Court decision has not been implemented within 56 or 42 days respectively, the complainant can apply to the District Court for enforcement of the decision.⁶⁵⁸ IHREC may also apply for an enforcement order on behalf of a complainant with their consent. A trade union can apply for an enforcement order regarding a WRC decision under EEA on behalf of a union member with their consent. The WRC may seek a District Court enforcement order with respect to its decisions under ESA or Labour Court EEA appeals.⁶⁵⁹ The District Court shall direct the respondent to comply with the WRC or Labour Court decision and may award interest on any compensation payable from 42 days after the decision in question to the date of its enforcement order.

ii Possibility for courts and other adjudicating bodies to retain jurisdiction after sanctions have been imposed

Irish non-discrimination legislation does not allow courts or quasi-judicial bodies to retain jurisdiction after sanctions have been imposed.

⁶⁵¹ See for example, Workplace Relations Commission, *Walsh v. Bus Éireann*, ADJ-00048460, 30 May 2024, <https://www.workplacerelations.ie/en/cases/2024/may/adj-00048460.html>.

⁶⁵² Workplace Relations Commission, *A University Lecturer v. A University*, ADJ-00002790, 21 August 2018, <https://www.workplacerelations.ie/en/cases/2018/august/adj-00002790.html>.

⁶⁵³ See, for example, Workplace Relations Commission, *Nevin v. Cpf (Profiles) Ltd. Cpf (Profiles) Ltd.*, ADJ-00054368, 25 August 2025, <https://www.workplacerelations.ie/en/cases/2025/august/adj-00054368.html> (summarised in Section 12.2).

⁶⁵⁴ See, for example, Workplace Relations Commission, *A Job Applicant v. A Garden Centre*, ADJ-00052022, 7 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj-00052022.html> (summarised in Section 12.2).

⁶⁵⁵ See, for example, Workplace Relations Commission, *Jackson v. K F Moda Ltd*, ADJ-00056560, 27 November 2025, <https://www.workplacerelations.ie/en/cases/2025/november/adj-00056560.html>.

⁶⁵⁶ For example, Equality Tribunal, *Sheehy Skeffington v. National University of Ireland, Galway*, DEC-E2014-078, 13 November 2014, <https://www.workplacerelations.ie/en/cases/2014/november/dec-e2014-078.html>; Workplace Relations Commission, *A Security Guard v. A Multi-National Retailer*, ADJ-00000581, 19 May 2016, <https://www.workplacerelations.ie/en/cases/2016/may/adj-00000581.html>.

⁶⁵⁷ For example, Workplace Relations Commission, *A Syrian Refugee v. A Bank*, ADJ-00013897, 25 March 2019, <https://www.workplacerelations.ie/en/cases/2019/march/adj-00013897.html>; *A Public Transport Service User v. A Public Bus Transport Company*, ADJ-00023344, 12 November 2020, <https://www.workplacerelations.ie/en/cases/2020/november/adj-00023344.html>.

⁶⁵⁸ Enforcement of WRC decisions under ESA is governed by Section 31 ESA and Section 43 of the Workplace Relations Act 2015. Enforcement of WRC and Labour Court decisions under EEA is provided for under Section 91 EEA and Sections 43 and 45 of the Workplace Relations Act 2015.

⁶⁵⁹ The WRC's Civil Enforcement Section carries out this function. Complainants can use an online form to request the WRC to take enforcement proceedings. According to the WRC's latest annual report, it dealt with 130 such cases in 2024 across its entire mandate. Separate figures are not provided for EEA or ESA cases: Workplace Relations Commission (2025), *Annual Report 2024*, p. 22.

iii Further steps/measures that courts or adjudicating bodies can take in case of non-compliance with the sanction

The WRC has the power to institute criminal proceedings where a respondent has failed to comply with a District Court enforcement order. That criminal offence is punishable by imprisonment for up to six months and/or a fine of EUR 5 000.⁶⁶⁰ A person that neglects to comply with a court order is in contempt of court and may be subject to fines, which can be imposed on a recurring basis as a matter of judicial discretion at common law.⁶⁶¹

iv The burden of enforcing sanctions

In practice, the burden of enforcing sanctions seems to be borne by individual complainants. In the event of non-compliance with a determination of the WRC or Labour Court, the complainant may bring enforcement proceedings before the District Court.⁶⁶² No data is available on the use of that mechanism. Complainants can apply to IHREC for assistance with enforcement proceedings.⁶⁶³ IHREC's annual reports from 2018 to 2024 refer to one case in which it supported a complainant to obtain an enforcement order and to granting legal assistance in another three cases, one of which was resolved prior to hearing, another was discontinued at the complainant's request, while no outcome is recorded for the third client, who was provided with legal advice only.

⁶⁶⁰ Section 51 Workplace Relations Act 2015, <https://www.irishstatutebook.ie/eli/2015/act/16/enacted/en/print#sec51>.

⁶⁶¹ See further, Charleton, P. and O'Connor, V. (2024), 'Try Something Else: Contempt and Confusion', *Irish Judicial Studies Journal*, Vol. 8(1), p. 44, <https://www.ijsj.ie/editions/2024-edition-1/>.

⁶⁶² Section 31 ESA; Section 91 EEA.

⁶⁶³ Section 40 Irish Human Rights and Equality Commission Act 2014.

7 BODY FOR THE PROMOTION OF EQUAL TREATMENT (Article 13 Directive 2000/43)⁶⁶⁴

In the author's assessment, national law is broadly in line with Directive 2024/1499. However, several legislative and other measures, including the allocation of additional resources, will be required to secure full compliance. IHREC is the current designated equality body, but it does not receive or determine discrimination complaints. A separate quasi-judicial body, the Workplace Relations Commission (WRC), does so. The WRC should be designated as an equality body with the following competences allocated to it: receipt of complaints and related information provision functions, alternative dispute resolution and decision-making concerning individual complaints. In addition, measures should be taken to ensure that the internal structure of IHREC, a multi-mandate body, guarantees the effective exercise of the equality mandate. IHREC's remit should be extended to Council Directive 79/7/EEC and the Pensions Acts 1990–2018, which implement the principle of equal treatment with respect to occupational pensions. The threshold for the exercise of IHREC's inquiry power does not seem to align with that specified in Directive 2024/1499. Systems and resources for collecting and accessing equality data should be enhanced. Reporting on the state of equal treatment and discrimination is a significant additional function that will also require the allocation of more resources to IHREC.

At the time of writing, no legislation had been adopted to transpose Directive 2024/1499. The Government's legislation programme for summer 2026 records that legislative proposals are 'in preparation'.⁶⁶⁵

7.1 National equality body

a) General 'architecture' of equality bodies

The Irish Human Rights and Equality Commission (IHREC) is the official national equality body and exercises the competences set out under Article 13 of the Racial Equality Directive (see below). IHREC does not process or determine discrimination complaints. A separate quasi-judicial body, the Workplace Relations Commission, is the primary forum for the adjudication of anti-discrimination cases on all the grounds protected under EU law. Complaints about discrimination in accessing many public services can be directed to the Office of the Ombudsman, which oversees an administrative process that examines complaints about decisions, refusals to act and procedures of public bodies (see further Section 6.1.a)

b) Designated body for the promotion of equal treatment irrespective of racial/ethnic origin according to Article 13 of the Racial Equality Directive

IHREC is Ireland's designated body for the promotion of equal treatment irrespective of racial or ethnic origin. Its mandate also extends to the other discriminatory grounds set out under domestic anti-discrimination law: age, civil status, disability, family status, gender, housing assistance, religion and sexual orientation. IHREC was established on 1 November 2014, replacing the Equality Authority as the country's specialised equality body and the Irish Human Rights Commission as Ireland's national human rights institution (NHRI).⁶⁶⁶

The Commission's services are accessible on an equal basis for all without costs. IHREC's Customer Service Charter sets out its commitment to accessibility and the provision of

⁶⁶⁴ Assessments and views concerning compliance with EU law throughout section 7, notably for Directive 2024/1499, whose transposition deadline is 19 June 2026 – after the cut-off date for this report – reflect the author's opinion.

⁶⁶⁵ Department of the Taoiseach (2026), [Government Legislation Programme Summer 2026](#).

⁶⁶⁶ Sections 9 and 44, [Irish Human Rights and Equality Commission Act 2014](#), 27 July 2014; Irish Human Rights and Equality Commission Act 2014 (Establishment Day) Order 2014 ([S.I. No. 450 of 2014](#)).

reasonable accommodation for persons with disabilities.⁶⁶⁷ In compliance with the public sector equality and human rights duty,⁶⁶⁸ the Commission's strategy statements and annual reports detail the accessibility measures that are in place and under development.⁶⁶⁹

IHREC's premises are in the capital city, Dublin; it does not have regional offices. In the author's assessment, IHREC has achieved a relatively high level of visibility throughout the country via engagement with local and national media. It has run several public awareness campaigns on TV, radio and social media.⁶⁷⁰ Nevertheless, according to an online survey conducted in 2025 with a nationally representative sample of 1 243 individuals, only 28 % of respondents knew who to contact for support with discrimination. Just 18 % of that cohort identified IHREC as the body they would approach.⁶⁷¹

7.2 Political, economic and social context of the designated body

The political, economic and social context in which IHREC operates has been relatively positive since its establishment in November 2014. Successive Governments have sanctioned increased funding to provide for the appointment of additional staff and the expansion of the Commission's mandate to include, inter alia, an additional enforcement function with respect to reporting on the gender pay gap.⁶⁷² This compares favourably with the experience of its predecessor equality body, the Equality Authority. The Authority's budget was drastically cut in Budget 2009 from approximately EUR 5.9 million to EUR 3.3 million, which represented a 43 % reduction. The Equality Authority's capacity to carry out the full range of its functions was severely compromised as a result.⁶⁷³

7.3 Institutional architecture

In Ireland, the designated body forms part of a body with multiple mandates. IHREC has a dual status as Ireland's national human rights institution and equality body. It is also the body designated for the purposes of Directive 2014/54/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers.⁶⁷⁴ In 2025, it was designated as a fundamental rights authority for the purposes of Article 77 of the EU Artificial Intelligence Act.⁶⁷⁵ The Commission acts as the National Rapporteur on the Trafficking of Human Beings and as the independent mechanism for promoting and monitoring compliance with the Convention on the Rights of Persons with Disabilities.⁶⁷⁶ It also has a designate monitoring role for the Convention Against Torture.⁶⁷⁷

⁶⁶⁷ IHREC (2025), [Customer Service Charter](#).

⁶⁶⁸ [Section 42\(1\)](#) IHRECA.

⁶⁶⁹ See, for example, IHREC (2025), [Annual report 2024](#), pp. 116–117; IHREC (2025), [Strategy statement 2025–2027](#), pp. 20–26.

⁶⁷⁰ For an account of an anti-racism campaign, see IHREC (2022), [Annual report 2021](#), pp.61–62. The third year of IHREC's disability rights awareness campaign is described in the Commission's 2022 annual report: IHREC (2023), [Annual report 2022](#), p.75.

⁶⁷¹ IHREC (2025), [Annual poll 2025](#).

⁶⁷² [Gender Pay Gap Information Act 2021](#).

⁶⁷³ Free Legal Advice Centres (2014), [Our voice, our rights: A parallel report in response to Ireland's Third Report under the International Covenant on Economic, Social and Cultural Rights](#), pp. 19–22; Harvey, B. and Walsh, K. (2009), *Downgrading equality and human rights: Assessing the impact*, Dublin, Equality and Rights Alliance.

⁶⁷⁴ [Section 10\(2\)\(i\)](#) IHRECA.

⁶⁷⁵ See: <https://enterprise.gov.ie/en/what-we-do/innovation-research-development/artificial-intelligence/eu-ai-act/>.

⁶⁷⁶ IHREC (2025), [Strategy statement 2025–2027](#), p. 6. IHREC was formally designated as the independent mechanism to promote and monitor implementation of UNCRPD under Section 103 of the Assisted Decision-Making (Capacity) Amendment Act 2022.

⁶⁷⁷ It is envisaged that IHREC will assume the role of Coordinating National Preventative Mechanism when the relevant legislation is published. Outline proposals were scrutinised by a parliamentary committee in 2023: Houses of the Oireachtas, Joint Committee on Justice (2023), [Report on pre-legislative scrutiny of the General Scheme of the Inspection of Places of Detention Bill 2022](#). It is listed for priority drafting in the legislation programme published in April 2026: Department of the Taoiseach (2026), [Government Legislation Programme Summer 2026](#).

IHREC is charged with protecting and promoting human rights and equality, encouraging the development of a culture of respect for human rights, equality and intercultural understanding, promoting understanding and awareness of the importance of human rights and equality, encouraging good practice in intercultural relations, promoting tolerance and acceptance of diversity and respect for the freedom and dignity of each person, and working towards the elimination of human rights abuses, discrimination and prohibited conduct.⁶⁷⁸

The human rights and equality functions of the body are integrated. In other words, the equality and non-discrimination mandate is not structured separately within the body, nor is a percentage of staff resources and budget dedicated to the equality mandate. Along with the Director, staff assigned to each of the Commission's sections (office of the Director, legal, strategic engagement, policy and research, corporate services, and anti-human trafficking) work across the body's mandate.⁶⁷⁹

7.4 Status of the designated body – general independence and resources

a) Status of the body

- Separate or other legal status or personality

IHREC was established as a body corporate with perpetual succession under the Irish Human Rights and Equality Commission Act 2014.⁶⁸⁰ It was re-accredited as an A status national human rights institution in 2021.⁶⁸¹

- Selection of governing body

Sections 12 and 13 IHRECA provide for membership and appointment of the Commission. The Minister for Children, Disability and Equality agrees with the Public Appointments Service the selection criteria and process to be implemented in respect of filling vacancies. The Service puts in place an independent selection panel with prescribed relevant experience and including one nominee of the Director of the European Union Agency for Fundamental Rights. Following an open competition, the panel recommends people for appointment. The legislation specifies that the 'Government shall accept that recommendation' save in defined 'exceptional circumstances'⁶⁸² and that the members shall be appointed by the President on the advice of Government, following a resolution of the Oireachtas. While the appointments process contains checks and balances that secure its independence from Government, greater transparency could perhaps be secured by according the Oireachtas an oversight role in the appointment of the selection panel.

In terms of qualifying criteria for membership of IHRECA, the Public Appointments Service and the Government must have regard to the need to ensure that the members 'broadly reflect the nature of Irish society' and possess knowledge of or experience in matters connected with human rights and matters connected with persons or classes of persons who are disadvantaged by reference to the discriminatory grounds.⁶⁸³ There must be gender balance in the composition of the 12 to 15 members. Members serve a term of three or five years. One of the members acts as the Chief Commissioner and chairs Commission meetings, which must take place at least every three months.⁶⁸⁴

⁶⁷⁸ Section 10(1) IHRECA.

⁶⁷⁹ IHREC (2025), [Annual report 2024](#), p. 109.

⁶⁸⁰ Section 9 IHRECA.

⁶⁸¹ International Coordinating Committee of National Human Rights Institutions (2021), [Report and recommendations of the virtual session of the Sub-Committee on Accreditation \(SCA\), 14–24 June 2021](#).

⁶⁸² Section 13(11)-(12) IHRECA.

⁶⁸³ Section 13(13) IHRECA.

⁶⁸⁴ Section 16 IHRECA.

- Sources of funding

The Commission's annual grant is a sum that the Minister for Children, Disability and Equality, after consultation with the Commission, considers to be reasonably sufficient for the Commission for the performance of its functions.⁶⁸⁵ Concerns about this provision were raised by the Sub-Committee on Accreditation of the UN's Global Alliance of National Human Rights Institutions (GANHRI), which pointed out that 'the Minister for Justice and Equality has significant discretion over the allocation of funds to the IHREC, and that this has the potential to impact on its effectiveness and independence'.⁶⁸⁶

- Powers to recruit and manage staff

The Commission appoints its own staff with the consent of the Minister for Children, Disability and Equality, as approved by the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation.⁶⁸⁷ They may also be seconded from other bodies at the Commission's discretion. Staff are civil servants of the State, a status which requires independence from Government. The Director of the Commission manages its administration and is accountable to Parliament for financial and other operational matters.⁶⁸⁸ The Director holds office under a written contract of service, the terms of which, including its duration, are determined by the Commission with the approval of the Minister for Children, Disability and Equality.

- Accountability

The Commission is accountable to Parliament; it must lay its strategy statement⁶⁸⁹ and annual report⁶⁹⁰ before the Oireachtas. The Director is accountable to the parliamentary Committee of Public Accounts for financial transactions and effective use of resources⁶⁹¹ and may be requested to account for administrative matters before other Oireachtas committees.⁶⁹²

b) Independence of the body

Legislation stipulates that the Commission shall be independent in the performance of its functions.⁶⁹³ In the author's assessment, the Commission's functions are exercised in an independent manner in practice. However, as noted above, the role of the Minister for Justice and Equality in setting the Commission's budget was identified by GANHRI as potentially impacting on its independence. Submissions concerning the establishment of IHREC suggested that its budget could be attached to a more 'neutral' department, such as the Department of the Taoiseach.⁶⁹⁴ The transfer of responsibility for IHREC's budget in 2020 to a department without a justice remit may have alleviated concerns about its independence since the issue did not feature in the 2021 reaccreditation process.⁶⁹⁵ The process for appointing Commission members could also be rendered more transparent by, for instance, according the Oireachtas an oversight role in the appointment of the selection panel. In re-accrediting IHREC as an 'A status' NHRI, GANHRI made several

⁶⁸⁵ Section 26 IHRECA.

⁶⁸⁶ International Coordinating Committee of National Human Rights Institutions (2015), [Report and recommendations of the session of the Sub-Committee on Accreditation \(SCA\) Geneva, 16-20 November 2015](#), p. 10.

⁶⁸⁷ Section 24 IHRECA.

⁶⁸⁸ Sections 20-23 IHRECA.

⁶⁸⁹ Section 25 IHRECA.

⁶⁹⁰ Section 28 IHRECA.

⁶⁹¹ Section 22 IHRECA.

⁶⁹² Section 23 IHRECA.

⁶⁹³ Section 9(2) IHRECA.

⁶⁹⁴ See further: Pegram, T. (2013), [Bridging the divide: The merger of the Irish Equality Authority and Human Rights Commission](#), Policy Institute, Trinity College Dublin.

⁶⁹⁵ International Coordinating Committee of National Human Rights Institutions (2021), [Report and recommendations of the virtual session of the Sub-Committee on Accreditation \(SCA\), 14-24 June 2021](#).

recommendations about the appointments process, including that applications be assessed on the basis of pre-determined and objective criteria.⁶⁹⁶

c) Resources

- The annual budget of the body

The Commission's budget for 2025 was EUR 9 810 million, representing an increase of 12 % from the previous year.⁶⁹⁷ Its budget will increase by 7.9 % in 2026 to EUR 10 584 million.⁶⁹⁸ This additional funding may enhance the Commission's capacity to provide legal assistance to victims of discrimination in future years.⁶⁹⁹ In its 2025 report, the European Commission on Racism and Intolerance (ECRI) called for the allocation of sufficient human and financial resources to IHREC, noting that 'the allocation of new mandates and functions ... was not accompanied by adequate and costed funding, nor by additional resources, thereby negatively impacting on IHREC's effectiveness'.⁷⁰⁰

- The share of the annual budget dedicated to the equality body mandate

A share of the annual budget is not dedicated to the equality body mandate.

- The total number of staff of the body

As of 31 December 2024 the Commission had 85 staff.⁷⁰¹ Data for 2025 was not available at the time of writing.

- The number of staff dedicated to the equality body mandate

Staff are not dedicated separately to the equality body mandate. Along with the Director, staff assigned to each of the Commission's sections (office of the Director, legal, strategic engagement, policy and research, corporate services, and anti-human trafficking) work across the body's entire mandate.⁷⁰²

7.5 Grounds and fields covered by the designated body

IHREC has a mandate to deal with the following grounds under Irish anti-discrimination law: gender, age, race, religion, family status, disability, civil status, sexual orientation, membership of the Traveller community and housing assistance. It does not prioritise any of the grounds as such. No information is in the public domain as to how the Commission ensures that adequate and appropriate expertise and attention is given to each ground. Staff work across all of the grounds and the human rights mandate in each of the Commission's functional divisions (see Section 7.4(c)). The Commission's *Strategy statement 2025–2027* adopts a holistic approach to the grounds, save that it refers to targeted consultation with the Roma community in devising its strategy.⁷⁰³ In the author's assessment, each ground is accorded an appropriate level of attention by the Commission. It has addressed the intersection between grounds in various submissions and has called

⁶⁹⁶ International Coordinating Committee of National Human Rights Institutions (2021), [Report and recommendations of the virtual session of the Sub-Committee on Accreditation \(SCA\), 14–24 June 2021](#).

⁶⁹⁷ Government of Ireland (2024), [Budget 2025 Expenditure Report](#).

⁶⁹⁸ Government of Ireland (2025), [Budget 2026 Expenditure Report](#).

⁶⁹⁹ The Law Society of Ireland, which represents the solicitors' profession in Ireland, has recommended that the institutional capacity of IHREC be increased so that it can meet the need for expert legal representation of discrimination law complainants: Law Society of Ireland (2021), [Submission on the Review of the Equality Acts](#), Para 5.3. See also, Free Legal Advice Centres (2021), [FLAC Submission to the Department of Children, Equality, Disability, Integration and Youth's Consultation on the Review of the Equality Acts](#), p. 138.

⁷⁰⁰ European Commission against Racism and Intolerance (2025), [ECRI report on Ireland \(sixth monitoring cycle\)](#), Paras. 3, 6.

⁷⁰¹ IHREC (2025), [Annual report 2024](#), Appendix 4.

⁷⁰² IHREC (2025), [Annual report 2024](#), p. 109.

⁷⁰³ IHREC (2025), [Strategy statement 2025–2027](#).

for the introduction of a provision on multiple and intersectional discrimination under anti-discrimination law.⁷⁰⁴

The Commission's mandate covers all fields within the material scope of Directive 2000/43/EC and Directive 2000/78/EC. However, it does not have an information and legal assistance function in relation to the Pensions Acts 1990-2018.

7.6 Competences of the designated body – and their independent exercise

a) Independent assistance to victims

IHREC has the competence to provide independent assistance to victims.⁷⁰⁵ It does so in two primary ways: by providing general information on anti-discrimination law and through the provision of legal assistance in a limited number of cases.

IHREC is required to 'provide information to the public' on the Employment Equality Acts 1998-2021 (EEA), the Equal Status Acts 2000-2018 (ESA) and Section 19 of the Intoxicating Liquor Act 2003.⁷⁰⁶ On its website, IHREC provides an accessible overview of those laws that are aimed at the general public as well as organisations and businesses.⁷⁰⁷ It published detailed guides to EEA and ESA in 2015, which were updated in 2020.⁷⁰⁸ The Commission also operates a public information service that individuals may use to obtain information on their rights to protection against discrimination, the Your Rights Information Service (YRIS).⁷⁰⁹ It processed 832 such queries from members of the public in 2024.⁷¹⁰ Data for 2025 was unavailable at the time of writing. An independent review of YRIS was conducted in 2024. Feedback received as part of that review indicated that it did 'not serve marginalised and vulnerable communities as well as it could'.⁷¹¹ At the time of writing, a redesign of the service to enhance its accessibility was under way. During the transition period, YRIS moved to digital methods of information provision only and the option of receiving information by telephone and email was unavailable to members of the public.⁷¹² Complementary forms of service delivery to ensure accessibility should be available in 2026.

Legal assistance can take the form of the provision (or arranging for the provision) of legal advice to the applicant, the provision (or arranging for the provision) of legal representation to the applicant or the provision of such other assistance to the applicant as the Commission deems appropriate in the circumstances.⁷¹³ Such assistance is available, inter alia, for references of discrimination complaints under ESA, EEA and Section 19 of the Intoxicating Liquor Act 2003, as well as for appellate or enforcement⁷¹⁴ proceedings under those laws. At the beginning of 2024, the Commission was providing legal advice and

⁷⁰⁴ See, for example, Irish Human Rights and Equality Commission (2023), *Submission on the review of the Equality Acts*, pp. 68-69.

⁷⁰⁵ Sections 10(2)(f) and 40 IHRECA. See further: <https://www.ihrec.ie/our-work/legal-work>.

⁷⁰⁶ Sections 10(2)(a) and 30 IHRECA.

⁷⁰⁷ See <https://www.ihrec.ie/your-rights>.

⁷⁰⁸ IHREC (2020), *The Employment Equality Acts 1998-2015*; IHREC (2020), *The Equal Status Acts 2000-2018*.

⁷⁰⁹ See further: <https://www.ihrec.ie/your-rights/>.

⁷¹⁰ IHREC (2025), *Annual report 2024*, Appendix 8.

⁷¹¹ IHREC (2025), *Strategy statement 2025-2027*, pp. 25-26.

⁷¹² See <https://www.ihrec.ie/contact-us>. In its 2024 annual report, the Commission refers to contact with members of the public occurring via phone, email and letter: IHREC (2025), *Annual report 2024*, p.11.

⁷¹³ Section 40(10) IHRECA.

⁷¹⁴ In a number of cases, the WRC has issued orders directing the respondent to report to the Commission on compliance within a given timeframe, underlining that IHREC could thereafter commence enforcement proceedings with the complainant's consent: Equality Tribunal, *Sheehy Skeffington v. National University of Ireland, Galway*, DEC-E2014-078, 13 November 2014, <https://www.workplacerelations.ie/en/Cases/2014/November/DEC-E2014-078.html>; Equality Tribunal, *Clavin v. Marks and Spencers Ireland Ltd.*, DEC-S2015-055, 28 July 2015, <https://www.workplacerelations.ie/en/Cases/2015/July/DEC-E2015-055.html>; Workplace Relations Commission, *A mother (on behalf of her son) v. The Board of Management of a National School*, DEC-S2016-048, 18 July 2016, <https://www.workplacerelations.ie/en/Cases/2016/July/DEC-S2016-048.html>.

representation to 207 individuals, and legal advice only to a further 62 people.⁷¹⁵ IHREC granted legal assistance to 155 new applicants in 2024, a similar number to the 147 applications approved in 2023. In addition, 88 applications were declined and 7 were withdrawn or discontinued. Of the new applicants, 5 approvals were for 'practical assistance only', while 76 were for legal advice only. Legal advice and representation was granted to 57 people, and a further 17 approvals were for 'for practical assistance and limited representation'. These figures include human rights cases; the number falling under the equality mandate is not specified.⁷¹⁶

In the author's assessment, decisions on granting legal assistance are exercised in an independent manner in practice. Safeguards include the publication of the applicable criteria, the provision of a reasoned decision to applicants in writing, and the delegation of decision-making to the Head of Legal, who is a civil servant of the State. The Commission published revised guidelines for deciding on applications for assistance in 2017.⁷¹⁷ Section 40(4) IHRECA underpins the guidelines; it stipulates that the Commission may grant assistance on the following criteria:

'(a) the matter to which the proceedings concerned relate raises a question of principle; (b) it would be unreasonable to expect the person to deal with the matter to which the proceedings concerned relate without assistance because of its complexity or for any other reason; (c) there are other special circumstances which make it appropriate for the Commission to grant such assistance.'

It has delegated the function of deciding on applications for assistance to staff; the Head of Legal decides whether to grant assistance, subject to an appeal to the Director.⁷¹⁸

IHREC provides limited information to the public on how this function is exercised. Its annual reports set out the number of open case files and contain brief accounts of case outcomes, which are also publicised in the Commission's press releases.⁷¹⁹ It is evident from these accounts that IHREC has supported multiple significant cases, such as proceedings before the CJEU on the Workplace Relations Commission's jurisdiction,⁷²⁰ and before the Supreme Court on reasonable accommodation for students sitting state examinations.⁷²¹ From 2020 to 2024, it provided legal representation in High Court litigation that addressed the relationship between the duty to provide reasonable accommodation and an occupational requirement (Section 4.3), further supporting the complainant in the re-hearing of the substantive case before the Labour Court.⁷²² Across 2017 to 2024 it supported a prison officer in a race-ground harassment case, which resulted in a High Court judgment quashing the Labour Court's decision, because it had failed to supply adequate reasons for its findings.⁷²³ The case was settled in 2024, prior to a new Labour Court hearing.⁷²⁴

⁷¹⁵ Data for 2025 was unavailable at the time of writing.

⁷¹⁶ IHREC (2025), [Annual report 2024](#), p.14.

⁷¹⁷ IHREC (2017), [Guidelines on applications for legal assistance](#).

⁷¹⁸ Under Section 10(6) IHRECA, the Commission may authorise its staff to perform any of its functions.

⁷¹⁹ See <https://www.ihrec.ie/news-press>.

⁷²⁰ The Commission represented two of the original complainants in the CJEU judgment of 4 December 2018, *Minister for Justice and Equality and The Commissioner of the Garda Síochána v. Workplace Relations Commission*, [C-378/17](#), ECLI:EU:C:2018:979. See further: <https://www.ihrec.ie/news-press/eu-court-of-justice-issues-landmark-equality-law-ruling>.

⁷²¹ IHREC provided legal representation before the Supreme Court to a woman who challenged the Department of Education's policy of annotating the examination transcripts of students who had been granted a spelling and grammar waiver. The Court found that the practice did not amount to disability-ground discrimination: Supreme Court, *Cahill v. Minister for Education and Science* [2017] IESC 29, 24 May 2017; see further: <https://www.ihrec.ie/news-press/supreme-court-clarifies-duties-towards-students-disability-discrimination-case>.

⁷²² High Court, *Cunningham v. Irish Prison Service* [2020] IEHC 282, 9 June 2020; Labour Court, *Irish Prison Service v. Cunningham*, EDA2434, 2 September 2024.

⁷²³ High Court, *Onyemekeihia v. The Minister for Justice and Equality* [2023] IEHC 697, 8 December 2023.

⁷²⁴ IHREC (2025), [Annual report 2024](#), p. 25.

The latest available annual report records that 55 legal assistance files pertaining to anti-discrimination law were closed in 2024 (data for 2025 was not available at the time of writing).⁷²⁵ Of these, 20 comprised legal advice only in 5 EEA cases spanning the disability, gender, race and religion grounds, as well as 12 ESA cases on the age, disability, housing assistance, civil status and Traveller community grounds, and three cases on the Traveller community ground under the Intoxicating Liquor Act. As detailed below, the other 35 entailed legal representation in 17 ESA cases, 10 EEA cases and 8 under the Intoxicating Liquor Act.

The 10 closed legal representation files under EEA involved complaints on the age (four), disability (three) and race (one) grounds, along with one multiple-ground case (race and disability) and a claim of victimisation. All cases were settled bar three. IHREC's legal assistance to one individual concluded when the WRC mediation ended without a settlement agreement.⁷²⁶ A long-running case file concerning a maximum recruitment age for the police force was closed when the state withdrew its appeal of Labour Court findings in favour of the complainants.⁷²⁷ Lengthy proceedings concerning reasonable accommodation culminated in a Labour Court determination that the complainant did not have a disability at the material time.⁷²⁸

Under ESA, IHREC's 17 closed case files related to the following grounds: age (one), disability (six), housing assistance (one), race (three), membership of the Traveller community (three), race and membership of the Traveller community (one), disability and membership of the Traveller community (one), race and family status (one). Just one of those cases resulted in a WRC determination⁷²⁹; the remainder were settled prior to hearing or concluded at the complainant's request.

All eight closed files under the Intoxicating Liquor Act were on the Traveller community ground. Six of those cases were settled outside of court. One was heard by the District Court, which awarded the complainants EUR 11 500 compensation and directed the respondent pub to issue a public apology and to undertake cultural awareness training with a Traveller rights organisation.⁷³⁰ The other case involved High Court judicial review proceedings, which unsuccessfully challenged a District Court refusal to reverse the burden of proof in line with Directive 2000/43.⁷³¹

In contrast to the Equality Authority, the Commission does not provide information on overarching patterns as to the reasons for either declining or deciding to grant assistance.⁷³² For example, 35 % of the applications processed in 2024 were declined, but the annual report does not explain why. It is thus unclear what has informed the

⁷²⁵ IHREC (2025), [Annual report 2024](#), pp.14–34.

⁷²⁶ IHREC (2025), [Annual report 2024](#), p. 29.

⁷²⁷ Labour Court, *Commissioner of An Garda Síochána and The Minister for Justice Equality and Law Reform v. Boyle*, EDA234, 25 January 2023, <https://www.workplacerelations.ie/en/cases/2023/february/eda234.html>; *Commissioner of An Garda Síochána and The Minister for Justice Equality and Law Reform v. Fitzpatrick*, EDA233, 25 January 2023, <https://www.workplacerelations.ie/en/cases/2023/february/eda233.html>.

⁷²⁸ Labour Court, *Irish Prison Service v. Cunningham*, EDA2434, 2 September 2024, <https://www.workplacerelations.ie/en/cases/2024/september/eda2434.html>.

⁷²⁹ Workplace Relations Commission, *A Member of the Roma Community v. A Supermarket*, ADJ-00050944, 3 September 2024, <https://www.workplacerelations.ie/en/cases/2024/september/adj-00050944.html>. See further, European Commission, Directorate-General for Justice and Consumers, Human European Consultancy, Migration Policy Group, Universiteit Utrecht and Walsh, J. (2025), *Country report: non-discrimination: Ireland 2025*, Luxembourg, Publications Office of the European Union, pp. 146–7.

⁷³⁰ IHREC (2025), [Annual report 2024](#), p. 31. The judgment in that case was not published but is discussed here: Breathnach, A. (2025), 'Regulars only', *Law Society Gazette*, 23 April 2025.

⁷³¹ High Court, *Connors v. Feshea & Ors* [2024] IEHC 431, 12 July 2024. See further, European Commission, Directorate-General for Justice and Consumers, Human European Consultancy, Migration Policy Group, Universiteit Utrecht and Walsh, J. (2025), [Country report: non-discrimination: Ireland 2025](#), Luxembourg, Publications Office of the European Union, p. 148.

⁷³² Individual applicants who are refused legal assistance are informed of the reasons in writing: IHREC (2017), [Guidelines on applications for legal assistance](#), Para. 27.

Commission's strategic approach – perhaps research findings suggesting that discrimination in a given area is endemic and persistent over time, for instance.

IHREC does not appear to prioritise cases on the grounds protected under EU law. Nor is it clear at this juncture whether IHREC supports a 'critical mass of cases', as recommended by the Council of Europe's Commissioner for Human Rights.⁷³³ Without such data it is difficult to appraise the effectiveness of IHREC's work, and the Commission risks reinforcing concerns that its approach to legal assistance is more restrictive or less well-resourced than that of the Equality Authority.⁷³⁴ An NGO working in the field of access to justice considers that the level of assistance provided 'poses challenges to the achievement of a culture of compliance with the legislation through a critical mass of cases being taken'.⁷³⁵

Third parties are not involved in the exercise of IHREC's competence to assist victims of discrimination.

b) Independent surveys and reports

IHREC has the competence to conduct independent surveys and publish independent reports. It is empowered to undertake, sponsor, commission or provide financial or other assistance for research⁷³⁶ and to prepare and publish, in such manner as it sees fit, reports including research reports.⁷³⁷

In the author's assessment this competence is effectively exercised in an independent manner in practice. The research reports produced are almost exclusively commissioned by IHREC and so carried out by independent actors. Many positions advanced within the reports are critical of the status quo.⁷³⁸ Carrying on the work of the Equality Authority, the Commission published a significant report in 2017, which analyses data on the experience of inequality derived from the equality module of the 2014 Quarterly National Household Survey, carried out by the Central Statistics Office.⁷³⁹ IHREC further built on that data in 2018 by co-producing reports with the Economic and Social Research Institute (ESRI), on *Ethnicity and nationality in the Irish labour market*;⁷⁴⁰ *Disability and discrimination in Ireland*⁷⁴¹ and *Discrimination and inequality in housing in Ireland*.⁷⁴²

A 2019 report maps and analyses data on attitudes to equality and human rights derived from 125 European surveys conducted between 2000 and 2018.⁷⁴³ In 2020, the ESRI and IHREC published the findings of a list experiment, which used a survey of 1 600 individuals

⁷³³ Commissioner for Human Rights (2011), *Opinion of the Commissioner for Human Rights on national structures for promoting equality*, [CommDH\(2011\)2](#), p. 21.

⁷³⁴ The Equality Authority's legal assistance work was widely regarded as being effective in driving compliance with anti-discrimination law and its depletion was of major concern to civil society organisations when the body was merged with the Irish Human Rights Commission. See further: Pegram, T. (2013), [Bridging the divide: The merger of the Irish Equality Authority and Human Rights Commission](#), Policy Institute, Trinity College Dublin; Free Legal Advice Centres (2014), [Our voice, our rights: A parallel report in response to Ireland's Third Report under the International Covenant on Economic, Social and Cultural Rights](#), pp. 19–22.

⁷³⁵ Free Legal Advice Centres (FLAC) (2021), [FLAC submission to the Department of Children, Equality, Disability, Integration and Youth's Consultation on the review of the Equality Acts](#), p. 138.

⁷³⁶ Section 10(2)(j) IHRECA.

⁷³⁷ Section 10(2)(p) IHRECA.

⁷³⁸ See, for example, commissioned research on access to justice for people with disabilities: O'Mahony, C. (2024), [Access to Justice: Implementation of Article 13 of the UN Convention on the Rights of Persons with Disabilities](#), and on the operation of the housing assistance ground under ESA: Hearne, R. and Walsh, J. (2022), [Housing Assistance and Discrimination – A Scoping Study on the 'Housing Assistance Ground' under the Equal Status Acts 2000–2018](#).

⁷³⁹ McGinnity, F., Grotti, R., Kenny, O. and Russell, H. (2017), [Who experiences discrimination in Ireland?: Evidence from the QNHS Equality Modules](#).

⁷⁴⁰ McGinnity, F., Grotti, R., Groake, S. and Coughlan, S. (2018), [Ethnicity and nationality in the Irish labour market](#).

⁷⁴¹ Banks, J., Grotti, R., Fahey, E. and Watson, D. (2018), [Disability and discrimination in Ireland](#).

⁷⁴² Grotti, R., Russell, H., Fahey, E. and Maître, B. (2018), [Discrimination and inequality in housing in Ireland](#).

⁷⁴³ Fahey, E., O'Brien, D., Russell, H. and McGinnity, F. (2019), European survey data on attitudes to equality and human rights: Technical paper.

to identify the effects of social desirability bias.⁷⁴⁴ An annual poll about human rights and equality issues has been conducted over the past few years with a nationally representative sample of circa 1 200 individuals. According to the 2023 poll, one in three people had witnessed racism and one in seven disability related discrimination over the previous year.⁷⁴⁵ The 2024 poll centred on public awareness of equivalent equality and human rights protections between Northern Ireland and Ireland, post-Brexit.⁷⁴⁶ The latest poll was conducted in July and August of 2025 and covered people's awareness, understanding of and attitudes towards a range of human rights and equality issues.⁷⁴⁷ Comparative data across the three most recent surveys was published for the first time in 2025. Under half of respondents believed they have a 'very' or 'quite strong' understanding of equality and anti-discrimination measures; 73 % were aware of the Employment Equality Acts, up from 68 % in 2024; while 51 % were aware of the Equal Status Acts, marking an increase of six percentage points from the previous two years. Fewer people felt that 'efforts made in Ireland to fight all forms of discrimination are effective' in the 2025 poll (40 %) than in 2023 and 2024 (45 % and 44 %, respectively). People aged 18–24, women and those who had experienced racism/discrimination in the previous 12 months were less likely to say efforts have been successful. Furthermore, 28 % of respondents reported that they would know who to contact if they experienced discrimination (the figures for 2023 and 2024 were 26 % and 27 %, respectively).

The Commission has also sponsored several research projects conducted by civil society bodies through its human rights and equality grants scheme (see further section 7.6(d)).

IHREC engages in strategic planning. It is obliged to do so by law every three years.⁷⁴⁸ Each of the four plans produced to date adheres to the prescribed legislative format, detailing key objectives, priorities and related strategies. Its fourth strategy statement, covering 2025–2027, was published in 2025.⁷⁴⁹

c) Recommendations

IHREC has the competence to make recommendations on discrimination issues. Statutory provisions empower the Commission to keep under review the adequacy and effectiveness of equality law and practice in the state;⁷⁵⁰ examine any legislative proposal and report its views on any implications for equality;⁷⁵¹ and make recommendations to the Government on measures which should be taken to strengthen, protect and uphold equality in the state.⁷⁵² These powers may be exercised on the Commission's own initiative or triggered by Government ministers.

IHREC has deployed its function to keep under review the adequacy and effectiveness of equality law and practice, through various channels including in submissions made to international treaty monitoring bodies. Its 2024 submissions to the UN Committee on Economic, Social and Cultural Rights⁷⁵³ and the European Commission against Racism and Intolerance⁷⁵⁴ contain multiple recommendations on enhancing the protection afforded under EEA and ESA. In December 2021, it submitted a comprehensive analysis of Irish

⁷⁴⁴ McGinnity, F., Creighton, M. and Fahey, E. (2020), [Hidden versus revealed attitudes: A list experiment on support for minorities in Ireland](#). 'Social desirability bias' refers to research participants' tendency to provide responses that under-report socially undesirable attitudes and behaviours.

⁷⁴⁵ IHREC (2024), [Annual report 2023](#), p.63.

⁷⁴⁶ IHREC (2025), [Annual report 2024](#), p.71.

⁷⁴⁷ IHREC (2025), [Annual poll 2025](#).

⁷⁴⁸ [Section 25](#) IHRECA.

⁷⁴⁹ IHREC (2025), [Strategy statement 2025–2027](#).

⁷⁵⁰ [Section 10\(2\)\(b\)](#) and [Section 30](#) IHRECA.

⁷⁵¹ [Section 10\(2\)\(c\)](#) IHRECA.

⁷⁵² [Section 10\(2\)\(d\)](#) IHRECA.

⁷⁵³ IHREC (2024), [Ireland and the International Covenant on Economic, Social and Cultural Rights: Submission to the Committee on Economic, Social and Cultural Rights on Ireland's Fourth Periodic Report](#).

⁷⁵⁴ IHREC (2024), [Ireland and the 6th Monitoring Cycle of the European Commission against Racism and Intolerance](#).

anti-discrimination law to the Government's consultation on the first review of the legal framework since its enactment.⁷⁵⁵ A second detailed submission, informed by the work of an advisory committee (see Section 7.6(e)), was published in July 2023.⁷⁵⁶ The submission sets out 55 recommendations which span the personal and material scope of the legislation, redress and implementation mechanisms. These include the amendment of the gender ground to expressly cover discrimination based on gender identity, gender expression and sex characteristics; recognition of intersectional discrimination; the introduction of a socio-economic status ground and a criminal conviction ground; enhancement of the provisions on reasonable accommodation and their extension to all discrimination grounds; and the inclusion of a clause specifying that statistics are not required to establish indirect discrimination. The Commission recommends removal of the compensation ceiling for discrimination cases and the inclusion of an express provision that redress be effective, proportionate and dissuasive. Suggestions aimed at enhancing access to justice include the extension of legal standing to NGOs and trade unions; transferring jurisdiction to the WRC for discrimination cases concerning licensed premises; and the extension of the civil legal aid scheme to cover WRC proceedings.

In the author's assessment, this competence is effectively exercised in an independent manner in practice. Many of the recommendations put forward by the Commission to date have been openly critical of Government. Written submissions draw on an extensive range of sources, including empirical studies and international best practice. IHREC has examined numerous legislative proposals since its establishment in November 2014; four of these pertain to discrimination law.⁷⁵⁷ It is difficult to assess the impact of its discrimination law submissions since three of the legislative proposals have yet to be fully debated before Parliament. The Commission's submission on the Education (Admission to Schools) Bill 2016 highlighted its conformity with the Racial Equality Directive (see section 3.2.7).⁷⁵⁸ Two of the Commission's observations concern the Disability (Miscellaneous Provisions) Bill 2016,⁷⁵⁹ which purported to amend Irish law to secure compliance with the UNCPRD and to add a gender identity and expression ground to anti-discrimination law more generally.⁷⁶⁰ The other legislative observation, issued in December 2017, welcomes the publication of a private member's bill that seeks to add 'disadvantaged socio-economic status' as a ground under national discrimination law.⁷⁶¹

To date, the Commission has largely exercised its powers in a reactive manner. It has not conducted a review of the principal anti-discrimination statutes. However, it published a review of Section 19 of the Intoxicating Liquor Act 2003 in 2022⁷⁶², which was informed by

⁷⁵⁵ See European Network of Legal Experts in Gender Equality and Non-Discrimination, Flash Report, Ireland, 'National equality body publishes submission to review of equality legislation', <https://www.equalitylaw.eu/downloads/5566-ireland-national-equality-body-publishes-submission-to-review-of-equality-legislation-79-kb>.

⁷⁵⁶ IHREC (2023), *Submission on the Review of the Equality Acts*.

⁷⁵⁷ The Commission's legislative observations are available at: <https://www.ihrec.ie/our-work/reviewing-legislation-and-policy>.

⁷⁵⁸ IHREC (2016), *Observations on the Education (Admission to Schools) Bill 2016*, at p. 5.

⁷⁵⁹ IHREC (2016), *Observations on the General Scheme of the Equality /Disability (Miscellaneous Provisions) Bill*; IHREC (2017), *Supplementary observations on the Disability (Miscellaneous Provisions) Bill 2016*.

⁷⁶⁰ The 2016 Bill lapsed in 2020 with the dissolution of parliament. Elements of that draft law were enacted under the Assisted Decision-Making (Capacity) (Amendment) Act 2022, but those pertaining to ESA and EEA should be dealt with instead under the forthcoming legislation resulting from the Government's review of equality legislation (see further section 8.2).

⁷⁶¹ IHREC (2017), *Observations on the Equality (Miscellaneous Provisions) Bill 2017*.

⁷⁶² IHREC (2022), *Report of a review of Section 19 of the Intoxicating Liquor Act 2005 carried out pursuant to Section 30 of the Irish Human Rights and Equality Commission Act 2014*. See further European Network of Legal Experts in Gender Equality and Non-Discrimination, Flash Report, Ireland, 'Redress system undermines EU law according to Ireland's national equality body', <https://www.equalitylaw.eu/downloads/5603-ireland-redress-system-undermines-eu-law-according-to-ireland-s-national-equality-body-86-kb>.

a consultation with stakeholders.⁷⁶³ A second review of the same legislative provision was published in 2025.⁷⁶⁴

d) Prevention, promotion and awareness-raising

IHREC is empowered to prepare draft codes of practice in furtherance of, inter alia, the elimination of discrimination and the promotion of equality of opportunity.⁷⁶⁵ If the Minister approves a code of practice, it becomes admissible in evidence in legal proceedings. A code of practice on equal pay, as well as a revised version of the Code of Practice on Sexual Harassment and Harassment at Work were approved in 2022.⁷⁶⁶ Draft codes on family-friendly measures in workplaces, reasonable accommodation in employment, the public sector equality and human rights duty, and discriminatory advertising produced from 2022 to 2024, were still awaiting ministerial approval as of 1 January 2026.⁷⁶⁷ Noting reports of significant delays in replies to requests for information or action, ECRI has recommended that the authorities 'strengthen cooperation with the IHREC in the field of equality and non-discrimination by replying to or taking action to implement the IHREC's recommendations within a certain timescale.'⁷⁶⁸

The Commission oversees the implementation of the positive duty placed on public bodies under Section 42 of the Irish Human Rights and Equality Commission Act 2014. In exercising their functions, public bodies must have due regard to the need to: '(a) eliminate discrimination, (b) promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and (c) protect the human rights of its members, staff and the persons to whom it provides services'.⁷⁶⁹ IHREC is charged with assisting public bodies to comply with the positive duty.⁷⁷⁰ It published a second edition of guidelines to the duty in 2024,⁷⁷¹ informed by a range of pilot measures conducted in previous years.⁷⁷²

Where the Commission considers that there has been evidence of a failure by a public body to perform its functions in a manner consistent with the duty and that it is appropriate in all the circumstances to do so, it may invite the public body to carry out a review or draw up an action plan, or both. The review or action plan may relate to equality of opportunity or human rights generally, or to a particular aspect of human rights or discrimination.⁷⁷³ The body must accept the Commission's invitation to trigger the review/action plan. There are no powers to compel engagement or ultimately to secure compliance with an action plan, however. In 2023, the Commission began to monitor compliance. Data gathered from desk research was entered into a portal system with 313 public bodies invited to access and review the data by the end of the year.⁷⁷⁴ The exercise revealed that just 12 % of the bodies were fully compliant with the statutory obligation.⁷⁷⁵ Compliance improved in 2024, with the Commission reporting that 20 % of bodies had met their publishing requirements

⁷⁶³ Under [Section 30\(5\)](#) IHRECA, the Commission 'shall consult such persons, groups and organisations... as it considers appropriate' for the purposes of assisting it in carrying out a review of legislation.

⁷⁶⁴ IHREC (2025), [Review of Section 19 of the Intoxicating Liquor Act 2005: Second review under Section 30 of the Irish Human Rights and Equality Commission Act 2014](#).

⁷⁶⁵ [Section 31](#) IHRECA.

⁷⁶⁶ Ireland, S.I. No. 107/2022 - Irish Human Rights and Equality Commission Act 2014 (Code of Practice on Equal Pay) Order 2022, <https://www.irishstatutebook.ie/eli/2022/si/107/made/en/print>; S.I. No. 106/2022 - Irish Human Rights and Equality Commission Act 2014 (Code of Practice on Sexual Harassment and Harassment at Work) Order 2022, <https://www.irishstatutebook.ie/eli/2022/si/106/made/en/print>.

⁷⁶⁷ IHREC (2024), [Annual report 2023](#), pp. 44, 57; IHREC (2025), [Annual report 2024](#), p. 49.

⁷⁶⁸ European Commission against Racism and Intolerance (2025), *ECRI report on Ireland (sixth monitoring cycle)*, Paras. 5–6, <https://rm.coe.int/sixth-report-on-ireland/48802911ef>.

⁷⁶⁹ Section 42(1) IHRECA.

⁷⁷⁰ Sections 10(2)(n) and 42(3)-(4) IHRECA.

⁷⁷¹ IHREC (2024), [Implementing the Public Sector Equality and Human Rights Duty, 2nd edition](#).

⁷⁷² See further: <https://www.ihrec.ie/public-sector-duty>.

⁷⁷³ Section 42(5)-(6) IHRECA.

⁷⁷⁴ IHREC (2024), [Annual report 2023](#), p. 57.

⁷⁷⁵ IHREC (2024), [Annual report 2023](#), Appendix 9.

in full. However, that year, 288 public bodies were deemed subject to the duty, and it is unclear why fewer organisations were included than in the 2023 process.⁷⁷⁶

Section 42(11) of IHRECA provides that nothing in Section 42 'shall of itself operate to confer a cause of action on any person against a public body in respect of the performance by it of its functions under subsection (1)'. The provision suggests that failure to comply with the duty is not actionable, directly at least, outside of the circumstances outlined above. The High Court held that the provision was not justiciable in a 2025 judgment.⁷⁷⁷ It seems, therefore, that a breach of duty may not be pleaded in tandem with other causes of action taken against public bodies.

IHREC is conferred with several statutory powers with respect to awareness raising, training and education. It is empowered to undertake, sponsor, commission or provide financial or other assistance for educational activities⁷⁷⁸ and to provide or assist in the provision of education and training on equality issues.⁷⁷⁹ Further, whether of its own volition or at the request of the Minister, it may undertake, sponsor, commission or provide financial or other assistance for programmes of activities and projects to promote the integration of migrants and other minorities, equality (including gender equality) and respect for diversity and cultural difference.⁷⁸⁰

The human rights and equality grants scheme, initiated in 2016, is one of the vehicles through which the Commission exercises these interrelated functions. In all, 23 organisations were awarded a total of EUR 350 000 in funding under the Commission's 2025 scheme for projects that address the themes of 'combatting disinformation, misinformation, and hate', 'challenging the structural causes of poverty', and 'ensuring a human rights and equality led approach to climate and environmental justice and a just transition'.⁷⁸¹

An online learning module aimed at enhancing public servants' understanding of human rights, equality and the public sector duty was launched in April 2022.⁷⁸² In the past, IHREC has run public awareness campaigns on attitudes to disability and on racism and ageism.⁷⁸³

IHREC engages with a broad range of stakeholders in implementing its mandate, including civil society associations, business/employer/service provider networks and organisations, public bodies, local government entities, trade unions and the general public. Engagement is underpinned by several statutory provisions that direct or enable IHREC to consult with 'relevant agencies and civil society'.⁷⁸⁴ An overarching obligation to engage with stakeholders is set out under Section 18(1) IHRECA, which provides:

'The Commission shall, for the purpose of establishing and maintaining effective co-operation with representatives of relevant agencies and civil society—

⁷⁷⁶ IHREC (2025), *Annual report 2024*, Appendix 9.

⁷⁷⁷ High Court, *MSM & Ors v. Clare County Council & Ors* [2025] IEHC 427, 25 July 2025. Justice Bolger held as follows: 'The applicants sought to rely on section 42 of the Human Rights and Equality Commission Act 2014. Pursuant to section 42(11) the applicants have no cause of action in relation to a public body's performance of their functions under section 42(1). Therefore, this plea does not give rise to a justiciable claim' (Para. 29).

⁷⁷⁸ Section 10(2)(j) IHRECA.

⁷⁷⁹ Section 10(2)(k) IHRECA.

⁷⁸⁰ Section 10(2)(l), IHRECA.

⁷⁸¹ See further: <https://www.ihrec.ie/civil-society/grantsscheme/grant-scheme-2025-2026>.

⁷⁸² The module can be accessed here: <https://elearning.ihrec.ie/>.

⁷⁸³ See: <https://www.ihrec.ie/our-work/public-awareness-campaigns>.

⁷⁸⁴ Section 2(2) IHRECA defines 'relevant agencies and civil society' as including '(a) non-governmental organisations concerned with the promotion or protection of human rights or equality, including organisations specialising in the promotion of economic and social development, (b) trade unions and other business, professional and social organisations, (c) third-level institutions and other experts in education, (d) religious bodies, secular bodies (within the meaning of the Civil Registration (Amendment) Act 2012) or other groups that are representative of religious thought and beliefs or philosophical beliefs, and (e) public bodies.'

- (a) appoint such and so many advisory committees as it thinks fit to assist and advise it on matters relating to its functions, and
- (b) support, establish or participate in such networks, public consultation processes or public forums, as it sees appropriate.⁷⁸⁵

To date, the Commission has undertaken public consultations with NGOs and the public on various facets of its work, including the formulation of its strategic plan.⁷⁸⁶ A high level of engagement with public bodies and local government entities has occurred in the context of assisting compliance with the public sector equality and human rights duty set out under Section 42 IHRECA. Several such stakeholders acted as pilot sites for testing implementation of the duty in practice.⁷⁸⁷

Establishing advisory committees, in accordance with Section 18(1)(a) IHRECA, is one of the primary formal mechanisms for securing stakeholder engagement. IHREC has appointed two long-standing advisory committees. The Worker and Employer Advisory Committee, established in 2017, comprises four worker and four employer representatives nominated by the Irish Congress of Trade Unions (ICTU) and by the Irish Business and Employers' Confederation (IBEC), as well as two Commission members. The Committee advises IHREC on employment equality and workplace issues; equal status in service provision; human rights in the workplace and service provision; diversity and interculturalism; and such other matters as are referred to it by the Commission.⁷⁸⁸

A Disability Advisory Committee was established in 2018.⁷⁸⁹ Its mandate is to advise IHREC on the adequacy and effectiveness of law and practice in the state relating to the protection of persons with disabilities; and to advise the Commission on the fulfilment of its independent monitoring role under the UNCRPD. Most of the Committee members are persons with disabilities and its chair and vice-chair are IHREC Commissioners.

In the author's opinion, the level and nature of engagement with civil society organisations is very good overall. IHREC places a strong emphasis on its work being informed by those who have experienced inequality and human rights violations.⁷⁹⁰

e) Other competences

IHREC may conduct equality reviews and prepare equality action plans or invite others to do so.⁷⁹¹ An equality review comprises an audit of the level of equal opportunity within an organisation or organisations and an examination of its/their practices, procedures and other relevant factors (including the working environment).⁷⁹² An equality action plan is a programme of actions to be implemented to further the promotion of equality of opportunity.⁷⁹³ A review or plan may relate to equality of opportunity generally or to a particular aspect of discrimination. This is a valuable mechanism in securing compliance with equality law that was employed for the first time in 2018.⁷⁹⁴

Following the 2018 reviews, IHREC issued six requests to prepare and implement equality action plans aimed at securing the cessation of less favourable treatment on the race ground in access to homeless and social housing services, the extension of the practice of non-supervision of urine samples to addiction treatment services nationwide, and the

⁷⁸⁵ Section 18 IHRECA.

⁷⁸⁶ IHREC is obliged to consult stakeholders on the formulation of its strategic plan in accordance with Section 25(3) IHRECA.

⁷⁸⁷ See further: <https://www.ihrec.ie/public-sector-duty>.

⁷⁸⁸ See: <https://www.ihrec.ie/about/advisory-committees>.

⁷⁸⁹ See generally: <https://www.ihrec.ie/about/advisory-committees>.

⁷⁹⁰ IHREC (2025), [Strategy statement 2025-2027](#).

⁷⁹¹ Section 32 IHRECA.

⁷⁹² Section 29 IHRECA.

⁷⁹³ Section 29 IHRECA.

⁷⁹⁴ IHREC (2019), [Annual report 2018](#), pp. 27-29.

provision of interpreting services for people accessing primary healthcare. According to the Commission's 2020 annual report, because of the reviews and action plans, discriminatory practices had been discontinued in most instances, while some dialogue between it and public bodies was ongoing.⁷⁹⁵ Progress on the action plan concerning interpreting services was delayed due to the pandemic and a cyberattack, but a plan was submitted in June 2022.⁷⁹⁶

In 2019, the Commission requested all 31 local authorities to undertake an equality review on the provision of Traveller-specific accommodation. The outcome of those reviews was outlined in the Commission's 2020 annual report.⁷⁹⁷ All local authorities have been issued with recommendations and, in December 2022, IHREC requested that seven authorities draw up equality action plans, which were completed and published online in 2024.⁷⁹⁸

In 2019, the Commission requested two retail banks to conduct equality reviews in relation to the provision of bank accounts to refugees and asylum seekers.⁷⁹⁹ The matter was resolved in May 2021, when all retail banks agreed to accept state-issued documents, thus enabling asylum seekers and refugees to open bank accounts.⁸⁰⁰

IHREC initiated one equality review in 2023.⁸⁰¹ It invited a sporting organisation, Gymnastics Ireland, to review the promotion of equality in its provision of services. The organisation issued an apology to a young black athlete in September 2023 following an alleged racist incident the previous year.⁸⁰² The equality review was published in April 2025.⁸⁰³

Several equality reviews initiated in 2024 or 2025 were ongoing at the time of writing. For instance, in October 2025, six organisations across the healthcare, finance and insurance sectors, along with the public sector body that assists jobseekers, were invited to review their services for Deaf persons who use Irish Sign Language.⁸⁰⁴

Section 35 IHRECA equips IHREC with the power to conduct inquiries.⁸⁰⁵ The threshold is relatively high: The Commission may conduct an inquiry if it considers that—

- '(a) there is, in any body (whether public or otherwise) institution, sector of society, or geographical area, evidence of—
 - (i) a serious violation of human rights or equality of treatment obligations in respect of a person or a class of persons, or
 - (ii) a systemic failure to comply with human rights or equality of treatment obligations,
 and
- (b) the matter is of grave public concern, and
- (c) it is in the circumstances necessary and appropriate so to do.'⁸⁰⁶

⁷⁹⁵ IHREC (2021), [Annual report 2020](#), pp. 42-45.

⁷⁹⁶ IHREC (2023), [Annual report 2022](#), pp. 45-46.

⁷⁹⁷ IHREC (2021), [Annual report 2020](#), pp. 42-45. An account of each review is available here:

<https://www.ihrec.ie/our-work/equality-reviews>.

⁷⁹⁸ See <https://www.ihrec.ie/news-press/commission-publish-equality-action-plans-from-seven-local-authorities-on-traveller-accommodation/>.

⁷⁹⁹ IHREC (2020), [Annual Report 2019](#), pp. 44-45.

⁸⁰⁰ IHREC (2022), [Annual Report 2021](#), p. 48.

⁸⁰¹ IHREC (2024), [Annual Report 2023](#), pp. 45-46.

⁸⁰² Cox, A. (2023), "'Unreserved' apology for black gymnast over medal snub', *RTÉ News*, 25 September 2023, <https://www.rte.ie/news/ireland/2023/0925/1407226-gymnastics-apology/>.

⁸⁰³ IHREC (2025), [Account of Equality Review carried out by Gymnastics Ireland](#).

⁸⁰⁴ See <https://www.ihrec.ie/news-press/ihrec-invites-six-organisations-to-undertake-an-equality-review-on-access-to-their-services-for-deaf-customers-who-use-irish-sign-language>.

⁸⁰⁵ See <http://www.irishstatutebook.ie/eli/2014/act/25/enacted/en/print#sec35>.

⁸⁰⁶ Section 35(1) IHRECA.

IHRECA sets out in detail the procedures that must be followed prior to and during an inquiry. At the conclusion of an inquiry, the Commission must prepare a report containing the facts it has established and its recommendations. The report is furnished to the Minister for Children, Disability and Equality, and its findings are subsequently published.⁸⁰⁷ This power has not been deployed to date. IHREC took decisions with respect to 23 requests to conduct an inquiry in 2015 and 2016, declining each one. According to its 2016 annual report, the 'majority of requests did not meet the threshold for intervention by the Irish Human Rights and Equality Commission as set out in Section 35'.⁸⁰⁸

In 2016, the Commission adopted a resolution on requests for inquiries, which underscores that only the Minister has the statutory right to seek an inquiry and that it will not in general conduct an assessment of the merits or otherwise of requests that it conduct an inquiry made by persons other than the Minister.⁸⁰⁹ IHREC's most recent annual report does not reference the inquiry power, nor does the strategic plan for 2025–2027.

The Commission is empowered to consult with such national, European Union or international bodies or agencies having a knowledge or expertise in the field of human rights or equality as it sees fit.⁸¹⁰

Finally, a residual provision under IHRECA provides that the Commission shall have all such powers as are necessary or expedient for the performance of its functions.⁸¹¹ IHREC has invoked that provision in issuing resolutions on its approach to its statutory functions.⁸¹²

7.7 Legal standing of the designated body

IHREC has legal standing to:

- bring discrimination complaints on behalf of identified victims to court;
- bring discrimination complaints on behalf of non-identified victims to court;
- bring discrimination complaints *ex officio* to court;
- intervene in legal cases concerning discrimination, for example as *amicus curiae*.

Section 85 EEA empowers IHREC to refer certain cases to the WRC, which are dealt with as if they had been referred by an individual complainant. IHREC may instigate complaints with respect to discriminatory advertising or the procurement of victimisation or discrimination (Section 85(d)-(f)). In such cases, there may be no actual victim. IHREC is also empowered, under Section 85(a)-(c), to refer a complaint to the WRC where it appears to the Commission:

- that discrimination or victimisation is being generally practised against persons or that an employer has applied or operated discriminatory rules or instructions;
- that discrimination or victimisation has occurred in relation to a particular person who has not made a reference to the WRC and that it is not reasonable to expect that person to make such a reference;
- that there is a failure to comply with an equal remuneration term or an equality clause either generally in a business or in relation to a particular person who has not made a reference and it is not reasonable to expect them to make such a reference.

⁸⁰⁷ [Schedule 2](#), IHRECA.

⁸⁰⁸ IHREC (2017), [Annual report 2016](#), p. 16. Inclusion Ireland, a national rights-based advocacy organisation that works to promote the rights of persons with an intellectual disability, has criticised IHREC's failure to conduct an inquiry into the ongoing institutionalisation of thousands of persons with an intellectual disability, as well as the process by which the Commission dealt with its request for an inquiry. See Inclusion Ireland (2018), [Deinstitutionalisation in Ireland: a failure to act](#).

⁸⁰⁹ IHREC (2016), [Resolution of the Irish Human Rights and Equality Commission on requests for inquiries](#).

⁸¹⁰ Section 10(2)(h) IHRECA.

⁸¹¹ Section 10(5) IHRECA, <http://www.irishstatutebook.ie/eli/2014/act/25/section/10/enacted/en/html#sec10>.

⁸¹² See, for example, IHREC (2016), [Resolution of the Irish Human Rights and Equality Commission on requests for inquiries](#).

Under Section 86 EEA, IHREC may refer a collective agreement to the WRC where it is considered that any provision of the agreement is discriminatory. The legislation does not specify whether the consent of persons affected by the purported discrimination must be obtained by IHREC.

Similar provisions enable IHREC to refer cases under ESA to the WRC (Section 23 ESA). IHREC may also apply to the District Court for a determination as to whether a club is a discriminating club under Section 8(3) ESA.

To date, the Commission has referred two cases to the WRC. Both involve discriminatory advertising complaints taken against companies under Section 23 ESA on the housing assistance, family status and age grounds. One case was settled prior to hearing,⁸¹³ and the other resulted in a successful determination before the WRC in 2019.⁸¹⁴

Section 100(3) EEA and Section 41(1) ESA empower IHREC to institute summary proceedings for an offence under any provision of that legislation. It seems that this power has not been deployed to date.

Section 41(1) IHRECA empowers the Commission to 'institute proceedings in any court of competent jurisdiction for the purpose of obtaining relief of a declaratory or other nature in respect of any matter concerning the human rights of any person or class of persons.' Declarations of unconstitutionality are expressly envisaged under Section 42(2). The reference to relief of another nature should allow a court to award a range of remedies such as damages and injunctions, depending on the legal basis of the proceedings. 'Human rights' are defined for this purpose as those guaranteed under the Irish Constitution, the European Convention on Human Rights Act 2003 or under 'any agreement, treaty or convention to which the State is a party and which has been given the force of law in the State' (Section 29 IHRECA). According to the Court of Appeal, this definition enables IHREC to litigate on compliance with the EU Charter but does not encompass putative breaches of EU directives and regulations.⁸¹⁵

In December 2023, the Commission commenced High Court proceedings invoking this power for the first time. IHREC sought a declaration that the State's failure to provide for the basic needs of international protection applicants violates the EU Charter of Fundamental Rights, the ECHR and/or the Irish Constitution. It also sought an order directing the relevant Minister to provide material reception conditions.⁸¹⁶ The High Court held that the state had breached its obligations under Article 1 of the Charter. Significantly, the judgment addressed several arguments about the parameters of Section 41. The state maintained, inter alia, that the individual members of the class must be identified and their consent obtained. The Court disagreed. It found that the legislative provision imposed no such requirements. Although the Court did not use the term *actio popularis*, in essence it concluded that IHREC is entitled to bring such an action provided that it does not concern an abstract or hypothetical question but addresses a 'live dispute' about the human rights of a class of persons. In a 2025 judgment, the Court of Appeal overturned the High Court's findings on the substantive issue; however, it agreed with the Court's analysis of the

⁸¹³ IHREC (2018), [Annual report 2017](#), p. 41.

⁸¹⁴ Workplace Relations Commission, *Irish Human Rights and Equality Commission v. Daft Media Limited t/a Daft.ie*, ADJ-00005960, 6 August 2019, <https://www.workplacerelations.ie/en/cases/2019/august/adj-00005960.html>. A settlement was reached prior to the hearing of an appeal by the Circuit Court, with the respondent agreeing to expanding and developing methods to identify and remove discriminatory advertising on its website: IHREC (2022), [Annual report 2021](#), p.21.

⁸¹⁵ Court of Appeal, *Irish Human Rights and Equality Commission v. The Minister for Children, Equality, Disability, Integration and Youth and Others* [2025] IECA 156, 30 July 2025, Para. 29. The Court reasoned that the breaches of human rights covered by the Section 41 litigation power are those of a 'foundational character'. In the author's opinion, it is regrettable that IHREC conceded that point (Para. 29). It closes off a potential avenue for litigating on compliance with the equality directives.

⁸¹⁶ High Court, *The Irish Human Rights and Equality Commission v. The Minister for Children, Equality, Disability, Integration and Youth, Ireland and The Attorney General* [2024] IEHC 493, 1 August 2024.

Commission's litigation power under Section 41.⁸¹⁷ It held that IHREC's power is not akin to a representative action or class action, affirming that individual members of the affected class do not have to be identified or consent to the litigation. An appeal before the Supreme Court was pending at the time of writing.⁸¹⁸

IHREC can intervene in legal cases concerning discrimination, but its express power to apply for liberty to appear as amicus curiae is confined to proceedings before the Superior Courts (the High Court, the Court of Appeal, and the Supreme Court).⁸¹⁹ The vast bulk of discrimination cases are litigated at the Workplace Relations Commission and the Labour Court, while several significant cases come before courts of local and limited jurisdiction. The express power to intervene in those forums would, therefore, be useful and would enable IHREC to contribute to the development of discrimination law principles without having to instigate or fund litigation. In 2006, the Supreme Court held that the Equality Authority had an implied power to apply to court to act as amicus in proceedings relating to its statutory functions.⁸²⁰ It would seem, therefore, that IHREC could seek to assert a similar power with respect to legal proceedings before any tribunal or court.

With respect to WRC proceedings, IHREC may be able to intervene by way of a generic provision under Irish anti-discrimination law, which stipulates that, in the course of an investigation, if the Director of the WRC considers it appropriate, they may 'hear persons appearing to the Director to be interested'.⁸²¹ It seems that it has never been invoked by IHREC or by its predecessor equality body.⁸²² In order to ensure that the provision could be activated by IHREC in practice, a procedure for notifying it of discrimination law proceedings should be put in place.⁸²³

Drawing on its express statutory power, IHREC has acted as amicus curiae before the Superior Courts in numerous cases since its establishment.⁸²⁴ Liberty to appear is at the discretion of the court. IHREC published revised guidelines on the exercise of its amicus curiae function in 2016.⁸²⁵ The bulk of the Commission's amicus curiae work falls under the rubric of its human rights mandate. Its most recent intervention in litigation concerning anti-discrimination law was in the 2019 Supreme Court case, *Daly v. Nano Nagle School*, which assessed the reasonable accommodation duty under EEA.⁸²⁶

It is difficult to appraise the Commission's exercise of its competence to initiate litigation at this juncture. Several of its powers in this regard have yet to be invoked and the Commission has not publicly explained why this is the case.

⁸¹⁷ Court of Appeal, *Irish Human Rights and Equality Commission v. The Minister for Children, Equality, Disability, Integration and Youth and Others* [2025] IECA 156, 30 July 2025, Paras. 16–36.

⁸¹⁸ See <https://www.ihrec.ie/news-press/supreme-court-grants-commission-leave-to-appeal-in-unaccommodated-international-protection-applicants-case>.

⁸¹⁹ Under Section 10(2)(e) IHRECA, IHREC may apply to the High Court or the Supreme Court for liberty to appear before that court as amicus curiae in proceedings that involve or are concerned with the human rights or equality rights of any person. IHREC may also apply to the Court of Appeal for liberty to appear before it as amicus curiae: Section 44(1) IHRECA transferred the power set out under Section 8(h) of the Human Rights Commission Act 2000 to IHREC.

⁸¹⁹ See: <https://www.ihrec.ie/app/uploads/2016/12/IHREC-Amicus-Curiae-Guidelines.pdf>.

⁸²⁰ Supreme Court, *Doherty v. South Dublin County Council* [2006] IESC 57, 31 October 2006.

⁸²¹ Section 25(1) ESA; Section 79(1) EEA. It should also be noted that, under [Section 10\(5\)](#) IHRECA, the Commission 'shall have all such powers as are necessary or expedient for the performance of its functions'.

⁸²² See further: Walsh, J. (2012), *Equal Status Acts 2000-2011: Discrimination in the provision of goods and services*, Dublin, Blackhall Press, Chapter 10.4.

⁸²³ IHREC is given notice of proceedings in which a declaration of incompatibility is sought pursuant to Section 6 of the European Convention on Human Rights Acts 2003 and 2014, <http://www.irishstatutebook.ie/eli/2003/act/20/section/6/enacted/en/html>.

⁸²⁴ IHREC's latest annual report details the two ongoing and two concluded cases in 2024, in which it acted as amicus curiae: IHREC (2025), *Annual report 2024*, pp. 44–47.

⁸²⁵ See: <https://www.ihrec.ie/app/uploads/2016/12/IHREC-Amicus-Curiae-Guidelines.pdf>.

⁸²⁶ Supreme Court, *Nano Nagle School v. Daly* [2019] IESC 63, 31 July 2019. The Commission's submissions are available at: <https://www.ihrec.ie/news-press/supreme-court-significantly-clarifies-rights-of-persons-with-disabilities-to-reasonable-workplace-accommodation>.

7.8 Dispute resolution

a) Quasi-judicial functions

In Ireland, the designated body is not a quasi-judicial institution.

In Ireland, there is a separate quasi-judicial body competent to decide on discrimination cases, called the Workplace Relations Commission (WRC). It is the primary first instance forum for complaints under EEA, ESA and the Pensions Acts.⁸²⁷ The Director of the WRC assigns an adjudication officer to investigate complaints received. There is no fee for using the WRC system, complainants may represent themselves, costs may not be awarded against either party and the procedure is relatively informal. Provided both parties consent, complaints may be referred instead to the WRC's mediation service.⁸²⁸ Mediation is held in private and agreements reached are not published.

The WRC can issue binding enforceable decisions. It cannot issue non-binding opinions.

i. Power to impose sanctions

The WRC has the power to impose sanctions in the form of compensation awards and/or specified courses of action, such as reinstatement to a post in the case of a dismissed worker.⁸²⁹

ii. Nature and level of sanctions that can be imposed

There are ceilings on compensation awards. Under EEA the limits are EUR 40 000, or a maximum of two years' pay, whichever is greater. The latter is calculated on the basis of the complainant's weekly pay at the time the case was referred, or at the date of their dismissal, if applicable.⁸³⁰ Where the complainant was not receiving remuneration when the case was referred (in the case of a discriminatory interview, for example) the maximum award is EUR 13 000.⁸³¹ In unequal pay cases, compensation may be awarded in the form of pay arrears, up to a maximum of three years prior to the referral of the case.⁸³² There is no provision for the payment of interest.⁸³³ The maximum award payable under ESA is EUR 15 000.⁸³⁴ ESA provides that compensation may be awarded for 'the effects of the prohibited conduct concerned'.⁸³⁵ No further statutory guidance is provided as to the factors that should be considered in deciding on the appropriate form of redress or on the level of compensation. The redress provisions of EEA are written in similar terms.⁸³⁶

Courses of action can enhance the effectiveness of sanctions since remedies can be tailored to the circumstances of complaints and can also generate significant effects beyond the immediate case. Adjudicators have used that power to direct changes in respondents' general policies and practices. Respondents in ESA cases have been ordered to create an equal opportunities policy, retrain staff, put in place complaints mechanisms for customers, and revise discriminatory policies. Employers have been directed to put in place pathways for discrimination complaints, to revise staff handbooks and training, and to review recruitment and other employment procedures.⁸³⁷ However, the maximum limits on

⁸²⁷ The WRC assumed the functions of the Equality Tribunal on 1 October 2015 under the terms of the Workplace Relations Act 2015: Ireland, Workplace Relations Act 2015, 20 May 2015, <http://www.irishstatutebook.ie/eli/2015/act/16/enacted/en/print.html>.

⁸²⁸ Section 39 Workplace Relations Act 2015; Section 78 EEA; Section 24 ESA.

⁸²⁹ Section 2 ESA; Section 82 EEA.

⁸³⁰ Section 82(4) EEA.

⁸³¹ Section 82(4)(b) EEA.

⁸³² Section 82(1)(a) EEA.

⁸³³ Interest may be awarded only in gender-ground cases as provided for under Section 82(5) EEA.

⁸³⁴ Section 27(2) ESA.

⁸³⁵ Section 27(1)(a) ESA.

⁸³⁶ Section 82, EEA.

⁸³⁷ See Section 6.5(c) for examples of such decisions.

financial awards may raise compliance issues with the EU law requirement that sanctions be effective, proportionate and dissuasive (Section 6.5(c)).

iii. Possibility to appeal (to the body itself or to courts)

Appeals from ESA decisions are heard by the Circuit Court, while EEA appeals are determined by another quasi-judicial body, the Labour Court.⁸³⁸ Appeals on a point of law may be lodged with the High Court.⁸³⁹

iv. Enforcement of binding decisions

Enforcement of binding decisions is a matter for the successful party, who can take enforcement proceedings before the regular courts.⁸⁴⁰ IHREC may provide legal assistance to persons undertaking such litigation.⁸⁴¹ There is no WRC mechanism for monitoring compliance with its decisions. In a few decisions the WRC has directed respondents to report either to WRC's advisory division on compliance or to the adjudication officer.⁸⁴² No information is in the public domain as to how these orders operate in practice (see further Section 6.5(d)).

b) Amicable settlements

The Commission does not have the competence to offer the parties to a discrimination complaint the possibility to seek an amicable resolution to their dispute.

7.9 Procedural safeguards

In principle, IHREC could conduct an inquiry into a particular organisation and engage in litigation against the same organisation (or vice versa). This has not occurred to date (as noted above, the Commission has never exercised its inquiry power). Schedule 2 of the Irish Human Rights and Equality Commission Act 2014, which governs the procedures to be followed in inquiries, provides as follows:

'Evidence given to Commission not admissible in certain proceedings

9. None of the following is admissible as evidence against a person in any criminal or other proceedings, other than in proceedings for an offence under paragraph 8:⁸⁴³

- (a) a statement or admission made by the person to the Commission;
- (b) a document given or sent to the Commission pursuant to a direction or request of the Commission to the person;
- (c) a document specified in an affidavit of documents made by the person and given to the Commission pursuant to a direction or request of the Commission.⁸⁴⁴

⁸³⁸ Section 28 ESA; Section 83 EEA.

⁸³⁹ Section 28 ESA; Section 90 EEA.

⁸⁴⁰ Section 31 ESA; Section 91 EEA.

⁸⁴¹ Section 40 IHRECA.

⁸⁴² The author has identified the following cases: *A Syrian Refugee v. A Bank*, ADJ-00013897, 25 March 2019, <https://www.workplacerelations.ie/en/cases/2019/march/adj-00013897.html>; *A Child v. A Childcare Facility*, ADJ-00025088, 11 November 2020, <https://www.workplacerelations.ie/en/cases/2020/november/adj-00025088.html>; *A Public Transport Service User v. A Public Bus Transport Company*, ADJ-00023344, 12 November 2020, <https://www.workplacerelations.ie/en/cases/2020/november/adj-00023344.html>.

⁸⁴³ Paragraph 8 provides for the offence of making a false statement in providing evidence to an inquiry.

⁸⁴⁴ See: <https://www.irishstatutebook.ie/eli/2014/act/25/enacted/en/print#sched2>.

7.10 Data collection by the designated body

a) Registration of complaints and decisions

IHREC does not register the number of complaints of discrimination made, nor decisions (by ground, field, type of discrimination etc.). IHREC reports on complaints and decisions in which it has acted. These data are published in its annual report and are available to the public on the Commission's website. The latest available information relates to 2024. At the beginning of that year, the Commission was providing legal advice and representation to 207 individuals, and legal advice only to a further 62 people. IHREC granted legal assistance to 155 new applicants in 2024. Of the new applicants, five approvals were for 'practical assistance only', while 76 were for legal advice only. In addition, 57 people were granted legal advice and representation, and a further 17 approvals were for 'practical assistance and limited representation'. These figures include human rights cases; the number falling under the equality mandate is not specified (see further Section 7.6(a)).⁸⁴⁵

The Workplace Relations Commission (WRC) is not the designated equality body. It is a distinct quasi-judicial forum that hears most discrimination law complaints at first instance (see Section 6.1(a)). The WRC's annual report, which covers a broad employment rights mandate in addition to ESA, EEA and the Pensions Acts, provides overall figures for the number of 'Complaint Applications' it receives (the cases referred to it) and further breaks this down into the number of 'Specific Complaints' lodged (separate legislative breaches asserted within each complaint application).⁸⁴⁶ Of the 19 068 specific complaints received by the WRC across its entire mandate in 2025, 2 658 (14 %) concerned anti-discrimination law. In the 2025 annual report, figures are provided for the number of complaints referred under EEA and ESA and these are further divided into the grounds cited in those complaints.

In total, 708 ESA complaints were referred, relating to 1 158 discriminatory grounds. The grounds specified in those complaints were age (64), civil status (54), disability (293), family status (80), gender (109), membership of the Traveller community (105), race (236), religion (60), sexual orientation (26) and housing assistance (131).⁸⁴⁷ Complaints increased by 15 % compared with the previous year. Referrals on the Traveller community ground have fluctuated in recent years, with 132 referrals in 2023, 245 the following year and 105 in 2025. Complaints citing the race ground have increased over the past three years, from 105 in 2023 to 215 in 2024, with a further 10 % increase in 2025 relative to 2024. Nonetheless, there has been a considerable drop in referrals on both grounds since 2016, the WRC's first full year in operation. In 2016, the Traveller community ground was invoked 416 times.⁸⁴⁸ Over the same period, citations of the race ground fell from 462 to 236, or by 49 %. The reasons for these patterns are unclear.

An outreach and social media campaign aimed at increasing awareness of the WRC and discrimination law amongst ethnic minorities and LGBT+ communities commenced in 2021 and was rolled out further in 2022.⁸⁴⁹ This initiative was underpinned by an action in the *National LGBTI+ Inclusion Strategy 2019 – 2021*⁸⁵⁰, which is replicated in the action plan

⁸⁴⁵ IHREC (2025), *Annual report 2024*, p.11.

⁸⁴⁶ Workplace Relations Commission (2026), *Annual Report 2025*. Reports for previous years are available at: https://www.workplacerelations.ie/en/publications_forms/corporate_matters/annual_reports_reviews/.

⁸⁴⁷ Workplace Relations Commission (2026), *Annual Report 2025*, p. 51.

⁸⁴⁸ As noted in Section 11.2, Travellers consistently report experiencing high levels of discrimination in domains covered by ESA.

⁸⁴⁹ Workplace Relations Commission (2022), *Annual report 2021*, pp. 44 and 50; Workplace Relations Commission (2023), *Annual report 2022*, pp. 45 and 56.

⁸⁵⁰ Government of Ireland (2019), *National LGBTI+ Inclusion Strategy 2019 – 2021*, p. 20. See further Section 9 of this report.

for its successor strategy.⁸⁵¹ In 2023, the WRC produced a series of information videos to raise awareness of its services.⁸⁵²

In 2025, there were 1 492 EEA complaints, an increase of 30 % compared with 2024.⁸⁵³ The 1 995 grounds indicated in those complaints were age (189), civil status (54), disability (622), family status (233), gender (394), membership of the Traveller community (17), race (372), religion (63) and sexual orientation (51). Referrals on four of the grounds covered by this report – disability, race, religion and sexual orientation – were higher in 2025 than in 2024. Complaints citing the sexual orientation ground rose by 4 % (from 49 to 51). Overall, referrals on that ground have increased in recent years from an average of 26 referrals across 2017 to 2022. Race-ground complaints rose for the third successive year to 372 referrals, an increase of 23 % compared with 2024. Such complaints had declined by 8 % in 2022, following a 14 % decrease the previous year.⁸⁵⁴ The number of disability-ground complaints climbed to 622 in 2025, a marked 52 % increase from 2024. Referrals under the Traveller community ground decreased by 26 % in 2025, from 23 to 17, while those citing the age ground decreased from 218 to 189, a 13 % decline from the 2024 figure. The reasons for these patterns are unclear. The increase in referrals on the sexual orientation and race grounds over the past three years may be attributable to the targeted WRC campaigns referred to above.

In 2025, there were 56 referrals under the Pensions Acts.⁸⁵⁵ Data was not provided for the grounds in question.

Annual reports are published on the WRC's website and are therefore available to the public.

b) Equality data collection

In Ireland, the designated body does not collect general equality data. As noted above, it has collaborated with the ESRI in analysing equality data collected by the Central Statistics Office (Section 7.6(b)).

7.11 Roma and Travellers

IHREC does not treat Roma and Travellers as a priority issue, as such. To date, the Commission has adopted a holistic approach to the discriminatory grounds.

⁸⁵¹ Government of Ireland (2025), [National LGBTIQ+ Inclusion Strategy II Action Plan 2025–2026](#), Action 35. In its 2019 annual report, the WRC recorded a 'substantial decrease' in race-ground complaints and a 'noticeable fall' in ESA referrals generally. It noted that the 'reasons behind this decline are unclear', and that an awareness-raising campaign 'with regard to specific categories' was planned for 2020: Workplace Relations Commission (2020), [Annual report 2019](#), p. 24.

⁸⁵² Workplace Relations Commission (2024), [Annual report 2023](#), pp. 38–39, and 45.

⁸⁵³ Workplace Relations Commission (2026), [Annual report 2025](#), p. 50.

⁸⁵⁴ Workplace Relations Commission (2023), [Annual report 2022](#), p. 33; Workplace Relations Commission (2022), [Annual report 2021](#), pp. 29–30.

⁸⁵⁵ Workplace Relations Commission (2026), [Annual report 2025](#), p. 52.

8 IMPLEMENTATION ISSUES

8.1 Dissemination of information, dialogue with NGOs and between social partners

The Irish Human Rights and Equality Commission is the primary vehicle through which Ireland implements non-discrimination law. IHREC has several statutory powers and functions pertaining to dissemination of information about legal protection against discrimination and relating to dialogue between the social partners and with NGOs.

- a) Dissemination of information about legal protection against discrimination (Article 10 Directive 2000/43 and Article 12 Directive 2000/78)

IHREC is required to 'provide information to the public' and to keep under review the effectiveness of the working of the Employment Equality Acts 1998-2021, the Equal Status Acts 2000-2018 and Section 19 of the Intoxicating Liquor Act 2003.⁸⁵⁶ On its website, IHREC provides an accessible overview of those laws aimed at the general public as well as organisations and businesses.⁸⁵⁷ The guides to EEA and ESA are published in 10 languages.

The Commission also operates a public information service that individuals may avail of to obtain information on their rights to protection against discrimination.⁸⁵⁸ It processed 832 such queries from members of the public in 2024, 424 of which concerned ESA, with 18 relating to discrimination in licensed premises and the remaining 390 pertaining to EEA.⁸⁵⁹ Data for 2025 was not available at the time of writing.

- b) Measures to encourage dialogue with NGOs with a view to promoting the principle of equal treatment (Article 12 Directive 2000/43 and Article 14 Directive 2000/78)

IHREC fosters dialogue with NGOs in implementing its mandate, which is underpinned by several statutory provisions that direct or enable the Commission to consult with 'relevant agencies and civil society'. An overarching obligation to engage with stakeholders is set out under Section 18(1) IHRECA, which provides:

'The Commission shall, for the purpose of establishing and maintaining effective co-operation with representatives of relevant agencies and civil society—
 (a) appoint such and so many advisory committees as it thinks fit to assist and advise it on matters relating to its functions, and
 (b) support, establish or participate in such networks, public consultation processes or public forums, as it sees appropriate.'⁸⁶⁰

The Government frequently establishes consultation mechanisms to receive input from civil society organisations on major law reform initiatives in the field of equality. Consultations are principally conducted by the Department of Children, Disability and Equality.⁸⁶¹ In July 2021, the Government launched the first comprehensive review of Irish anti-discrimination law since its enactment over two decades ago.⁸⁶² The first phase comprised a public consultation process with written submissions elicited by early December 2021. A synthesis

⁸⁵⁶ [Section 30](#) IHRECA.

⁸⁵⁷ See <https://www.ihrec.ie/your-rights/>.

⁸⁵⁸ See <https://www.ihrec.ie/your-rights/>.

⁸⁵⁹ IHREC (2025), [Annual report 2024](#), Appendix 8.

⁸⁶⁰ See <http://www.irishstatutebook.ie/eli/2014/act/25/section/18/enacted/en/html>.

⁸⁶¹ See <https://www.gov.ie/en/department-of-children-disability-and-equality/>.

⁸⁶² See <https://www.gov.ie/en/department-of-children-disability-and-equality/publications/the-review-of-the-equality-acts/>.

of the 569 submissions received was published in 2023, 100 of which were submitted by organisations with the remainder authored by individuals (see further section 8.2(a)).⁸⁶³

- c) Measures to promote dialogue between social partners to give effect to the principle of equal treatment within workplace practices, codes of practice and workforce monitoring (Article 11 Directive 2000/43 and Article 13 Directive 2000/78)

Pursuant to Section 18 IHRECA, the Commission established an advisory committee comprising social partners in 2017. The Worker and Employer Advisory Committee comprises representatives nominated by the Irish Congress of Trade Unions (ICTU) and by the Irish Business and Employers' Confederation (IBEC), as well as Commission members. It advises IHREC on equality and human rights issues in the workplace and in service provision. The Committee met twice in 2024.⁸⁶⁴ Across that year, it worked on the development and delivery of a conference on socioeconomic equality in employment and on a guide to inclusive employment practices concerning the Traveller and Roma communities, which was published in 2025.⁸⁶⁵

IHREC is empowered to prepare codes of practice in furtherance of the elimination of discrimination and the promotion of equality of opportunity. In drafting codes of practice, IHREC is mandated to consult with such other persons or bodies as it considers appropriate.⁸⁶⁶ The social partners were consulted in the production of two codes of practice concerning employment equality, which were approved by the Minister in 2022 (see further Section 7.6(d)).

- d) Addressing the situation of Roma and Travellers

A specialised body or institution has not been established to address the situation of Roma and Travellers in Ireland; rather various government departments are mandated to address the position of those communities by overseeing the development and implementation of national strategies in sectors such as healthcare and education (see further section 9.2).

8.2 Measures to ensure compliance with the principle of equal treatment (Article 14 Directive 2000/43, Article 16 Directive 2000/78)

- a) Compliance of national legislation (Articles 14(a) and 16(a))

In general, Ireland has taken the necessary measures to ensure that any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished (Article 14(a) of Directive 2000/43/EC and Article 16(a) of Directive 2000/78/EC).

This has largely occurred in the process of transposing the directives and amending legislation subsequently to align domestic law with the directives. No provision of Irish anti-discrimination law has the effect of striking out or disapplying primary or secondary legislation. However, IHREC is obliged to keep the effectiveness of anti-discrimination law under review and, whenever it thinks necessary, to make proposals to the Minister for amending that legislation (see further Section 7.6(c)).⁸⁶⁷

In 2021, the Government initiated the first comprehensive review of Irish anti-discrimination law since its enactment.⁸⁶⁸ A summary of the written submissions received

⁸⁶³ Government of Ireland (2023), [The Equality Acts Review: Summary of the submissions received to the 2021 Public Consultation on the Review of the Equality Acts](#).

⁸⁶⁴ IHREC (2025), [Annual report 2024](#), pp. 107–108.

⁸⁶⁵ IHREC (2025), [Traveller and Roma Inclusive Employment: Employer Guide](#).

⁸⁶⁶ [Section 31](#) IHRECA.

⁸⁶⁷ [Section 10\(2\)\(b\)](#) and [Section 30](#) IHRECA.

⁸⁶⁸ See <https://www.gov.ie/en/department-of-children-disability-and-equality/publications/the-review-of-the-equality-acts/>.

through an open public consultation was published in 2023.⁸⁶⁹ In January 2025, the Government published outline law reform proposals.⁸⁷⁰ Several of the proposed changes address potential compliance issues with EU law raised in this report (see section 11.1). These include deletion of the provision on lower pay for workers with disabilities, defining vocational training to align it with CJEU case law, and the transfer of discrimination complaints against licensed premises to the WRC. The compensation limit for breaches of ESA would be raised from EUR 15 000 to EUR 75 000. However, the maximum compensation ceilings under EEA would remain intact. The notification requirement for ESA complaints would be retained, with the window for notification extended to four months. Extension of the religion ground to cover discrimination based on non-religious beliefs is not addressed.

The proposals were examined by a parliamentary committee in July 2025 and a report on that process was published in October 2025.⁸⁷¹ The report echoes many of the concerns raised in the hearings and submissions. While welcoming several reforms that would enhance the legislative framework, contributors to the pre-legislative scrutiny process highlighted perceived deficits.⁸⁷² For instance, the proposals do not expand the protected discriminatory grounds, they confine the proposed recognition of intersectional discrimination to ESA and neglect to align reasonable accommodation duties with international human rights obligations. IHREC's submission underscored that several of its recommendations had not been addressed.⁸⁷³ It had called for, *inter alia*, the amendment of the gender ground to refer to and define gender identity, gender expression and sex characteristics; the introduction of a socioeconomic status ground; and provisions to strengthen and expand the public sector equality and human rights duty. It has also sought clarification on the burden of proof in indirect discrimination cases, as well as amendments to the Equal Status Acts to include public functions in the definition of services and the repeal of the provision that exempts actions taken by law from challenge. It remains to be seen whether these concerns will be addressed in 2026. Drafting of a revised scheme was listed as a priority item in the Government's legislation programme for autumn 2025. The programme for summer 2026 records that it is 'in preparation'.⁸⁷⁴

b) Compliance of other rules/clauses (Articles 14(b) and 16(b))

Under Section 30 EEA, all employment contracts are deemed to have an equality clause that transforms any provisions of the contracts that would otherwise give rise to unlawful discrimination.⁸⁷⁵ All discriminatory provisions in collective agreements are deemed null and void; it is not possible to contract out of the terms of the equality legislation.⁸⁷⁶ IHREC or a person who is affected by a collective agreement may refer it to the WRC.⁸⁷⁷

While it is the case that discriminatory clauses are not valid, the reality is that this fact may only be established through litigation. Where an adjudicator determines that the

⁸⁶⁹ Government of Ireland (2023), [The Equality Acts Review: Summary of the submissions received to the 2021 public consultation on the Review of the Equality Acts](#).

⁸⁷⁰ General Scheme of the Equality (Miscellaneous Provisions) Bill 2024, <https://assets.gov.ie/static/documents/general-scheme-of-the-equality-miscellaneous-provisions-bill-2024.pdf>. See further: European Network of Legal Experts in Gender Equality and Non-Discrimination, Flash Report, Ireland, 'Revision of Irish equality legislation', <https://www.equalitylaw.eu/downloads/6267-ireland-revision-of-irish-equality-legislation>.

⁸⁷¹ Joint Committee on Children and Equality (2025), [Report on Pre-Legislative Scrutiny of the General Scheme of the Equality \(Miscellaneous Provisions\) Bill 2024](#).

⁸⁷² The author of this report participated in one of the Oireachtas committee hearings.

⁸⁷³ IHREC (2025), [Pre-Legislative Scrutiny of the General Scheme of the Equality \(Miscellaneous Provisions\) Bill 2024](#).

⁸⁷⁴ Department of the Taoiseach (2025), [Government Legislation Programme: Autumn 2025](#); Department of the Taoiseach (2026), [Government Legislation Programme Summer 2026](#).

⁸⁷⁵ With respect to occupational pensions and benefit schemes, the equivalent provision is Section 81 of the Pensions Acts 1990-2018.

⁸⁷⁶ Section 9 EEA.

⁸⁷⁷ Sections 86-87 EEA.

clause in question is contrary to the legislation, that part of the collective agreement or contract cannot be enforced and must be modified.⁸⁷⁸

IHREC may conduct equality reviews and prepare equality action plans. This is a valuable mechanism in securing compliance with EEA and ESA, which was employed by IHREC for the first time in 2018.⁸⁷⁹

⁸⁷⁸ See, for example, Workplace Relations Commission, *A Customer Assistant v. A Grocery Retailer*, ADJ-00005316, 21 July 2017, <https://www.workplacerelations.ie/en/Cases/2017/July/%20ADJ-00005316.html>.

⁸⁷⁹ See further Section 7.6(e).

9 COORDINATION AT NATIONAL LEVEL

9.1 Coordination at the governmental level

The Department of Children, Disability and Equality coordinates issues regarding anti-discrimination on the grounds covered by this report.⁸⁸⁰ It is responsible for developing and promoting policy on equality and coordinates many of the strategies referred to below.⁸⁸¹ As noted in section 8.2(a), the Department initiated a review of anti-discrimination law, which is expected to result in draft legislation in 2026. In recent years it has conducted and commissioned research that aims to inform law reform proposals and equality strategies. For instance, it commissioned a survey of attitudes to diversity in 2023.⁸⁸² A nationally representative sample of 3 008 individuals were interviewed in person and over the telephone. That data was further analysed in a 2024 report on public attitudes to Traveller and Roma people, which was funded by the Department.⁸⁸³ In 2022, the Department prepared a report on *Experiences and perceptions of discrimination in Ireland*.⁸⁸⁴ The report synthesises data from several sources with a view to assisting policy makers in designing more effective anti-discrimination strategies.⁸⁸⁵ In collaboration with the Central Statistics Office, the Department established a working group in 2022 to develop a national equality data strategy.⁸⁸⁶ The strategy should be published in early 2026.⁸⁸⁷

From 1 May 2025, the Department of Justice, Home Affairs and Migration assumed responsibility for anti-racism policy, including oversight of the National Action Plan Against Racism.⁸⁸⁸

9.2 National strategies and action plans

The *National Action Plan Against Racism 2023-2027* (NAPAR) was published in 2023.⁸⁸⁹ It sets out five objectives: 'To strengthen protections from racist incidents and crimes and to make it easier for people experiencing racism to access effective remedies'; 'To address inequality of outcomes for people experiencing racism, including in employment, education, health and housing'; 'To support the representation and participation of minority ethnic people in all aspects of life in Ireland, in particular where they are currently under-represented'; 'To build a better understanding in Ireland of the experiences and outcomes of minority ethnic groups and those experiencing racism, as well as of the causes of and remedies for racism'; and 'To work together to understand the prevalence and impact of racism, both throughout our history and today, and make a collective effort to eliminate it.'⁸⁹⁰

⁸⁸⁰ The Department of Children, Equality, Disability, Integration and Youth was retitled as the Department of Children, Disability and Equality in May 2025: S.I. No. 180/2025 – Children, Equality, Disability, Integration and Youth (Alteration of Name of Department and Title of Minister) Order 2025, <https://www.irishstatutebook.ie/eli/2025/si/180/made/en/print>.

⁸⁸¹ See <https://www.gov.ie/en/department-of-children-disability-and-equality/policy-information/equality-and-integration/>.

⁸⁸² Government of Ireland (2023), [Survey on people in Ireland's attitude toward diversity](#).

⁸⁸³ Carron-Kee, E., McGinnity, F. and Alamir, A. (2024), [Understanding Attitudes to Travellers and Roma in Ireland](#), Dublin, Economic and Social Research Institute.

⁸⁸⁴ Government of Ireland (2022), [Experiences and perceptions of discrimination in Ireland](#).

⁸⁸⁵ Department of Children, Equality, Disability, Integration and Youth, press release, 'Minister O'Gorman publishes discrimination report to inform equality policy', 31 March 2022, <https://www.gov.ie/en/press-release/5d971-minister-ogorman-publishes-discrimination-report-to-inform-equality-policy/>.

⁸⁸⁶ Department of Children, Equality, Disability, Integration and Youth, press release, 'Minister O'Gorman announces the development of a National Equality Data Strategy', 21 March 2022, <https://www.gov.ie/en/department-of-children-disability-and-equality/press-releases/minister-ogorman-announces-the-development-of-a-national-equality-data-strategy/>.

⁸⁸⁷ Dáil Éireann Debate, Equality Issues, 15 January 2026, <https://www.oireachtas.ie/en/debates/question/2026-01-15/494/>.

⁸⁸⁸ S.I. No. 159/2025 – Integration and Reception (Transfer of Departmental Administration and Ministerial Functions) Order 2025, <https://www.irishstatutebook.ie/eli/2025/si/159/made/en/print>.

⁸⁸⁹ Government of Ireland (2023), [National Action Plan Against Racism 2023–2027](#).

⁸⁹⁰ Government of Ireland (2023), [National Action Plan Against Racism 2023–2027](#), pp. 14–15.

Measures to advance these objectives are divided into two categories: priority actions and recommendations. Priority actions of relevance to this report include expansion of the civil legal aid scheme and 'giving advocacy organisations standing to initiate proceedings on behalf of those affected by racism' (Action 1.4), and the introduction of a workers' and employers' guide for combating racism and promoting racial equality (Action 5.4). Intersectionality is a core principle underpinning the plan and for that reason, all implementation and monitoring data must be disaggregated by gender. The concept is explicitly referenced in several actions. For instance, in 2025 the Central Statistics Office was to 'carry out a comparison of Census 2016 and Census 2022 to provide data to inform action on the intersectionalities of ethnicity and other protected characteristics' (Action 4.4).⁸⁹¹ Educational institutions and several government departments are tasked with taking 'steps to strengthen inclusion and anti-racism at all levels of the education system, including through addressing any bias embedded in the curriculum, and to support approaches that are fully intersectional and intercultural' (Action 2.5).

The NAPAR was devised in collaboration with civil society representatives and other stakeholders, including IHREC.⁸⁹² Monitoring and implementation mechanisms were established in 2024.⁸⁹³ An independent Special Rapporteur on Racial Equality and Racism was appointed to monitor implementation of the NAPAR against detailed activity targets. The Rapporteur receives data from a NAPAR Co-ordination Committee for this purpose. That Co-ordination Committee comprises representatives of Government departments responsible for actions under the plan and is chaired by the Department of Justice. Its role is to co-ordinate activity under the plan and gather the data necessary for monitoring and implementation of the actions. An Advisory Committee on Racial Equality and Racism was also appointed in 2024, consisting of eight individuals who have knowledge and expertise, including lived experience, in matters related to racial equality and racism. The Special Rapporteur chairs the Advisory Committee and consults with it in the preparation of her annual report.

A biannual implementation report is prepared by the Department in consultation with the Co-ordination Committee. The first such report was published in August 2024.⁸⁹⁴ A second report, which covers actions undertaken up to February 2025, was published in September 2025.⁸⁹⁵ The Special Rapporteur makes an annual report to the Minister, which is also submitted to parliament. The first annual report was submitted to the Minister in December 2025.⁸⁹⁶

Combating antisemitism falls under the larger *National Action Plan Against Racism* (NAPAR).⁸⁹⁷ Antisemitism is mentioned once in the plan and none of the measures are aimed specifically at antisemitism, or indeed any other form of racism.

The *National Traveller and Roma Inclusion Strategy 2024–2028* (NTRIS II) was published in 2024, along with a two-year action plan.⁸⁹⁸ It sets out 80 actions to be realised across the following nine themes: Combating Racism and Discrimination; Children and Young People; Gender Equality; Health and Wellbeing; Education; Employment and Enterprise;

⁸⁹¹ See further, Joseph, E. (2025), [Annual report of the Special Rapporteur on Racial Equality and Racism, Ireland](#), p. 76.

⁸⁹² See further, European Commission, Directorate-General for Justice and Consumers, Human European Consultancy, Migration Policy Group, Universiteit Utrecht and Walsh, J. (2025), [Country report: non-discrimination: Ireland 2025](#), Luxembourg, Publications Office of the European Union, p. 128.

⁸⁹³ Department of Children, Equality, Disability, Integration and Youth (2024), [National Action Plan Against Racism: First Implementation Report for 2023–2024](#).

⁸⁹⁴ Department of Children, Equality, Disability, Integration and Youth (2024), [National Action Plan Against Racism: First Implementation Report for 2023–2024](#).

⁸⁹⁵ Department of Justice, Migration and Home Affairs (2025), [National Action Plan Against Racism: Second Implementation Report 2024](#).

⁸⁹⁶ Joseph, E. (2025), [Annual report of the Special Rapporteur on Racial Equality and Racism, Ireland](#).

⁸⁹⁷ Government of Ireland (2023), [National Action Plan Against Racism](#).

⁸⁹⁸ Department of Children, Equality, Disability, Integration and Youth (2024), [National Traveller and Roma Inclusion Strategy II 2024–2028](#).

Accommodation; Culture, Heritage and Identity; Participation, Empowerment, Cooperation and Accountability.⁸⁹⁹ The strategy's development was informed by consultation with Traveller and Roma organisations, an evaluation of the previous strategy and a review of evidence from various sources, including recommendations of international human rights bodies.⁹⁰⁰ The Department sought feedback on a draft of the strategy and action plan from NTRIS Steering Committee members and IHREC.⁹⁰¹ Relevant actions include the implementation of an information campaign in partnership with Traveller and Roma organisations on awareness of discrimination and avenues of redress, with the aim of increasing complaints (Action 7; to be delivered in 2026). A review of the adequacy of existing supports for the provision of legal advice to Travellers and Roma incorporating a focus on discrimination in private rental accommodation was due to be conducted by the Department in Q4 2025 (Action 8). Implementation is overseen by the NTRIS II Steering Committee, which comprises senior officials from relevant government departments and an IHREC representative, as well as representatives from the Traveller and Roma communities and civil society organisations. The Steering Committee is chaired by the Minister for Children, Disability and Equality.⁹⁰² At the time of writing, two progress reports on developments up to June 2025 had been published.⁹⁰³

Intersectionality is referenced at several junctures in NTRIS II. Ensuring an adequate response to intersectional discrimination and inequality is a strategic objective and, to that end, the Steering Committee will be obliged to address intersectionality in its monitoring activities (Action 71).⁹⁰⁴ The Department of Children, Disability and Equality is tasked with proposing 'high-level initiatives aimed at delivering an intersectional approach, for example periodic interaction between all national equality strategy steering committees' (Action 72). It remains to be seen what form these initiatives will take (at the time of writing, this action was flagged as 'delayed').⁹⁰⁵ The public sector equality and human rights duty is considered a key vehicle for addressing intersectionality under NTRIS II. The current action plan commits the Department to developing a template for reporting on compliance with the duty, which will be used to make transparent how intersectionality is being addressed by public sector organisations. The template was to be made available to all departments and agencies in Q2 2025 (Action 5). This action is marked as 'complete' in the latest progress report, but scant detail is provided as to the work undertaken. The report simply notes: 'Departments and relevant State Agencies have been informed that material on implementation of NTRIS II actions may be useful for the purposes of reporting on the Public Sector Duty.'⁹⁰⁶

The *Traveller and Roma Education Strategy 2024–2030* was published in July 2024.⁹⁰⁷ Preparation of that strategy commenced in 2023, with input from the public received through an online survey. The Department of Education also engaged in consultation with stakeholders from the education system and Traveller and Roma communities, as well as with children and young people.⁹⁰⁸ A Traveller and Roma Education Strategy Advisory Group was established to oversee strategy development. That group comprised Traveller and Roma people, education stakeholders and representatives of several government

⁸⁹⁹ Department of Children, Equality, Disability, Integration and Youth (2024), [National Traveller and Roma Inclusion Strategy II 2024–2028 – Action Plan](#).

⁹⁰⁰ Department of Children, Equality, Disability, Integration and Youth (2024), [National Traveller and Roma Inclusion Strategy II 2024–2028](#), pp. 52–70.

⁹⁰¹ IHREC (2024), [Observations on the Draft National Traveller and Roma Inclusion Strategy 2024–2028 and Draft Action Plan 2024–2028](#).

⁹⁰² Department of Children, Disability and Equality (2025), [NTRIS II Steering Committee – Terms of Reference](#).

⁹⁰³ Department of Children, Disability and Equality (2025), [NTRIS II progress update Q4 2024](#); Department of Children, Disability and Equality (2025), [NTRIS II six monthly update January to June 2025](#).

⁹⁰⁴ Department of Children, Disability and Equality (2025), [NTRIS II Steering Committee – Terms of Reference](#).

⁹⁰⁵ Department of Children, Disability and Equality (2025), [NTRIS II six monthly update January to June 2025](#).

⁹⁰⁶ Department of Children, Disability and Equality (2025), [NTRIS II six monthly update January to June 2025](#), p. 1.

⁹⁰⁷ Government of Ireland (2024), [Traveller and Roma Education Strategy 2024–2030](#).

⁹⁰⁸ See: <https://www.gov.ie/en/department-of-education/consultations/traveller-and-roma-education-strategy/#consultation-reports>.

departments. The strategy aims to address barriers and challenges encountered by Traveller and Roma students across the education system – from early learning and childcare to third level. It is built around four pillars, each of which has a corresponding set of actions: ‘Participation and Experience’, ‘Access and Outcomes’, ‘Partnership’ and ‘Delivering Change’. An action plan for 2024–2026 was also published in July 2024.⁹⁰⁹ Actions of relevance to this report include a commitment by the Department of Education to: ‘Update and publish Intercultural Guidelines for schools, including a focus on children and young people from Traveller and Roma communities’ (Action 1.4.1). Intersectionality is referenced in one action concerning collaboration between a further education body and a Traveller and Roma representative organisation to address the participation barriers faced by Traveller and Roma women in higher education (Action 3.7.5). Implementation of the strategy is monitored by a Traveller and Roma Education Strategy Oversight Group overseen by the Department of Education and Youth. The Group’s membership includes representatives from the education sector, government departments and agencies, and Traveller and Roma organisations. A Traveller and Roma Education Forum has been established to ensure ongoing consultation with those communities.⁹¹⁰ It convenes at least twice a year to provide feedback on implementation. The Department of Education and Youth publishes an annual implementation report, which is approved by the Strategy Oversight Group and sent to the NTRIS Steering Committee. Three progress reports had been published as of 1 January 2026.⁹¹¹ The strategy implementation plan will be reviewed every two years, with new actions being built upon through successive progress reviews.

The Department of Health published the *National Traveller Health Action Plan 2022–2027* in 2022.⁹¹² It sets out 45 actions to tackle the severe health inequalities experienced by Travellers. One of the Action Plan’s key goals is to enhance and expand the infrastructure that secures access to culturally appropriate primary healthcare. The fourth national access plan on equity in higher education was also published in 2022.⁹¹³ Members of the Traveller and Roma communities are one of the three priority groups addressed by a series of measures aimed at improving access to and participation and engagement in third-level education.

The *National LGBTIQ+ Inclusion Strategy II 2024 – 2028* (NLIS II) was published in June 2025, along with an action plan spanning its first two years.⁹¹⁴ Consultations with civil society groups and LGBTIQ+ people took place in 2024.⁹¹⁵ Implementation is overseen by the NLIS II Steering Committee, which is chaired by the Minister for Children, Disability and Equality and comprises representatives of government departments and NGOs, and includes an IHREC nominee. The strategy is structured around four key pillars: ‘Safety’, ‘Health and Wellbeing’, ‘Participation and Inclusion’ and ‘Equality and Non-Discrimination’. The action plan for 2025–2026 sets out 45 corresponding actions. Those relevant to this report include raising awareness of WRC’s role in dealing with discrimination complaints (Action 35). The Department of Children, Disability and Equality will conduct research on experiences of intersex discrimination with a view to examining protection based on sex characteristics under EEA and ESA (Action 39). The Department and the Steering

⁹⁰⁹ Government of Ireland (2024), *Traveller and Roma Education Strategy – Plan for Implementation and Action 2024-2026*.

⁹¹⁰ See: <https://www.gov.ie/en/department-of-education/organisation-information/traveller-and-roma-education-forum/>.

⁹¹¹ The reports are available here: <https://www.gov.ie/en/department-of-education/consultations/traveller-and-roma-education-strategy/#tres-information-series>.

⁹¹² Department of Health (2022), *National Traveller Health Action Plan (2022-2027)*, <https://www.hse.ie/eng/services/publications/socialinclusion/national-traveller-health-action-plan-2022-2027.pdf>. Department of Health (2022), *National Traveller Health Action Plan (2022-2027)*.

⁹¹³ Department of Further and Higher Education, Research, Innovation and Science, and Higher Education Authority (2022), *National Access Plan: A Strategic Action Plan for Equity of Access, Participation and Success in Higher Education 2022-2028*.

⁹¹⁴ Government of Ireland (2025), *National LGBTIQ+ Inclusion Strategy II 2024 – 2028*; Government of Ireland (2025), *National LGBTIQ+ Inclusion Strategy II Action Plan 2025-2026*.

⁹¹⁵ See: <https://www.gov.ie/en/department-of-children-disability-and-equality/consultations/consultations-for-the-national-lgbti-inclusion-strategy/>.

Committee are charged with proposing 'high-level initiatives aimed at delivering an intersectional approach, for example periodic interaction between all national equality strategy steering committees' (Action 40). The Department of Social Protection will establish 'an interdepartmental working group to carry out an impact assessment on providing legal recognition for those who identify as non-binary' (Action 42).

The *National Human Rights Strategy for Disabled People 2025–2030* was published in September 2025.⁹¹⁶ In December 2025, a programme of action for 2025–2026 was also published.⁹¹⁷ A consultation process to inform the development of the Strategy commenced in 2023 and ran until end February 2024.⁹¹⁸ The Strategy aims to advance realisation of the UNCRPD and sets goals centred on the five pillars of 'inclusive learning and education', 'employment', 'independent living and active participation in society', 'wellbeing and health' and 'transport and mobility'. Oversight of delivery will be undertaken by the Cabinet Committee on Disability, with the Department of Children, Disability and Equality acting as the main coordinating body. A Delivery and Monitoring Committee, which includes representation from Disabled Persons Organisations (DPOs) and the National Disability Authority, will monitor progress. The Government will also create Strategic Focus Networks (SFNs), each led by a government department or agency. These are described as collaborative, stakeholder-driven groups established to address complex, cross-cutting issues that require a 'whole-of-government' approach. They will bring together departments, state agencies and DPOs to facilitate in-depth discussion, research and policy development. Under the first implementation plan, SFNs will examine digital and assistive technology, the cost of disability and intersectionality. The SFN on intersectionality is tasked with developing 'a coherent approach to the issue of intersectionality in addressing how different minority identities intersect with disability. We will examine how additional difficulties can arise for disabled people who may experience multiple forms of disadvantage or discrimination where being disabled intersects with other aspects of their lives such as being from a minority ethnic community, their social class, or their gender. We will explore solutions unique to these experiences.'⁹¹⁹

⁹¹⁶ Government of Ireland (2025), [National Human Rights Strategy for Disabled People 2025–2030](#).

⁹¹⁷ Government of Ireland (2025), [National Human Rights Strategy for Disabled People – First Programme Plan of Action 2025–2026](#).

⁹¹⁸ See: <https://www.gov.ie/en/department-of-children-disability-and-equality/publications/upcoming-consultation-have-your-say/>.

⁹¹⁹ Government of Ireland (2025), [National Human Rights Strategy for Disabled People – First Programme Plan of Action 2025–2026](#), p. 97.

10 CURRENT BEST PRACTICES

- Section 42 of the Irish Human Rights and Equality Commission Act 2014 introduced a positive duty on public bodies to have due regard to human rights and equality in exercising their functions. IHREC is charged with assisting public bodies to comply with the duty and to that end has produced guidelines and other resources for duty bearers.⁹²⁰
- IHREC operates a human rights and equality grants scheme, which provides opportunities for funded research, education and training projects to be conducted by civil society organisations.⁹²¹
- The WRC and the Labour Court have interpreted the prohibition of direct discrimination on the race ground as requiring different treatment to take account of linguistic and cultural barriers experienced by potentially vulnerable migrant workers.⁹²²
- No fees are payable by complainants before the first instance forum for discrimination law cases under ESA and EEA.⁹²³
- The availability of non-financial sanctions as redress under EEA and ESA enables remedies to have an impact beyond the parties to the case, since they may entail changes to respondents' practices and procedures.⁹²⁴

No best practices were identified in relation to the use of artificial intelligence.

⁹²⁰ See further Section 7.6(e).

⁹²¹ See further Section 7.6(d).

⁹²² See Section 2.4(a): Prohibition and definition of direct discrimination.

⁹²³ See Section 6.1(a): Available procedures for enforcing the principle of equal treatment.

⁹²⁴ See Section 6.5: Sanctions and remedies.

11 SENSITIVE OR CONTROVERSIAL ISSUES⁹²⁵

11.1 Potential breaches of the directives at the national level

Both acts:

- In a 2015 judgment, the Supreme Court considered the interpretation of indirect discrimination under ESA for the first time and held that statistical analysis is required in order to establish that a person belonging to a protected group is at a 'particular disadvantage' compared with others.⁹²⁶ This evidential requirement appears to be more restrictive than the provisions on the burden of proof provided for in the Directives.⁹²⁷ (Article 8, Directive 2000/43/EC; Article 10, Directive 2000/78/EC)
- The setting of maximum levels of compensation and the failure to provide for the payment of interest mean that the acts are arguably not in compliance with the Directives.⁹²⁸ (Article 15, Directive 2000/43/EC; Article 17, Directive 2000/78/EC)

Employment Equality Acts 1998-2021

- The provisions of the acts may not adequately prohibit discrimination on the grounds of religion *or* belief, since only religious beliefs appear to be covered.⁹²⁹ (Articles 1 and 2, Directive 2000/78/EC)
- '[P]ersons employed in another person's home for the provision of personal services' are excluded from protection against discrimination regarding access to employment.⁹³⁰ (Article 3, Directive 2000/43/EC; Article 3, Directive 2000/78/EC)
- The definition of 'vocational training' may be too restrictive.⁹³¹ (Article 3, Directive 2000/43/EC; Article 3, Directive 2000/78/EC)
- It is not discriminatory to pay a person with a disability a lesser rate of remuneration.⁹³² (Articles 2 and 3, Directive 2000/78/EC)

Equal Status Acts 2000-2018

- It is not certain that the scope of ESA fully covers social protection and social advantages.⁹³³ (Article 3, Directive 2000/43/EC)
- Putative discriminatory treatment required by law cannot be challenged under ESA.⁹³⁴ (Article 3, Directive 2000/43/EC)
- ESA complaints must be instigated within two months of the discriminatory act by sending a written notification to the alleged discriminator. A substantial number of cases are dismissed annually for failure to comply with that requirement, raising potential compliance issues with the Racial Equality Directive provisions on defence of rights.⁹³⁵ (Article 7, Directive 2000/43/EC)
- The transfer of jurisdiction regarding discrimination in access to premises licensed for the sale of alcohol from the Equality Tribunal to the District Court under the Intoxicating Liquor Act 2003 raises issues of compliance with the non-regression provisions of Article 15 of the Racial Equality Directive, due to the prohibitive cost and relative complexity of court proceedings.⁹³⁶

⁹²⁵ The assessments and views expressed in both sections 11.1 and 11.2 reflect the author's opinion.

⁹²⁶ Supreme Court, *Stokes v. Christian Brothers High School, Clonmel* [2015] IESC 13, 24 February 2015.

⁹²⁷ See Section 3.2.7: Education; Section 3.2.1: Statistical evidence.

⁹²⁸ See Section 6.5: Sanctions and remedies.

⁹²⁹ See Section 2.1.1: Definitions.

⁹³⁰ See Section 3.2.1: Material scope, Conditions for access to employment.

⁹³¹ See Section 3.2.3: Access to vocational training.

⁹³² See Section 4.8: Any other exceptions.

⁹³³ See Section 3.2.5: Social protection.

⁹³⁴ See Section 3.2.5: Social protection.

⁹³⁵ See Section 6.1(b): Remedies and enforcement, Barriers and other deterrents faced by litigants seeking redress.

⁹³⁶ See Section 6.1(b): Barriers and other deterrents faced by litigants seeking redress.

- Where a registered club is set up to cater for the needs of members of a particular group, it can exclude persons who do not fall under the relevant ground from membership.⁹³⁷ (Article 3, Directive 2000/43/EC)

11.2 Other issues of concern

Persons with irregular or undocumented migration status are not afforded protection against discrimination under EEA.⁹³⁸

The national equality body, IHREC, provides legal representation to victims of discrimination in a relatively low number of cases.⁹³⁹ IHREC has not yet exercised its inquiry power,⁹⁴⁰ as well as several litigation powers.⁹⁴¹ At the time of writing, Directive 2024/1499 had not been fully transposed.

Limited data are available on discrimination complaints.⁹⁴²

Research on people's experiences of discrimination suggests that high levels of discrimination are experienced by certain sectors of Irish society.⁹⁴³ For instance, according to nationally representative survey data from 2014, Travellers were over 22 times more likely to encounter discrimination in access to private services than those who identified as 'White Irish'.⁹⁴⁴ Black respondents reported significantly higher levels of discrimination in the workplace and in accessing services than their White counterparts of any nationality. These findings are reinforced by more recent Fundamental Rights Agency (FRA) surveys. The FRA's Roma and Travellers survey, conducted in 2024, found that, at 75 %, the reported rate of overall discrimination against Travellers in Ireland was the highest among all groups from the 13 countries covered by that research.⁹⁴⁵ This amounts to a 10 % increase in experiences of discrimination compared with the 2018/2019 survey.⁹⁴⁶ Of the Roma respondents, 60 % said they were discriminated against in the previous year. Among people of African descent living in Ireland, 55 % reported experiencing racial discrimination in the five years prior to 2022.⁹⁴⁷ This marked an increase of seven percentage points from data collected in 2016 and was the fifth-highest rate among the 13 Member States included in the study.

Under-reporting of discrimination is an enduring issue. According to surveys carried out over the past two decades, most people who experience discrimination take no action.⁹⁴⁸ This was the case for 7 out of 10 respondents to the two most recent surveys, conducted

⁹³⁷ See Section 3.2.8: Access to and supply of goods and services.

⁹³⁸ See Section 3.1.1: EU and non-EU nationals.

⁹³⁹ See Section 7.6(a).

⁹⁴⁰ See Section 7.6(e).

⁹⁴¹ See Section 7.7.

⁹⁴² See Section 6.1(c)-(d); Section 7.10(a).

⁹⁴³ The Central Statistics Office (CSO) conducts surveys on people's perception of experiencing discrimination. Participants are asked whether, in the previous two years, they experienced discrimination in the workplace, while seeking work, or in accessing services from public or private sector providers. The first three surveys conducted in 2004, 2010 and 2014, involved large samples, from 15 000 to almost 25 000. Unfortunately, the sample size for the 2019 survey was 3 971, which severely limits analysis of small population groups such as Travellers, including comparability across time in reported rates of discrimination. The most recent CSO survey was conducted with 7 852 respondents in the third quarter of 2024, and the results were released in 2025: <https://www.cso.ie/en/releasesandpublications/ep/p-ed/equalityanddiscrimination2024/>.

⁹⁴⁴ McGinnity, F., Grotti, R., Kenny, O. and Russell, H. (2017), *Who Experiences Discrimination in Ireland? Evidence from the QNHS Equality Modules*, ESRI, p. 36.

⁹⁴⁵ EU Fundamental Rights Agency (FRA) (2025), *Rights of Roma and Travellers in 13 European countries – Perspectives from the Roma Survey 2024*, Vienna, FRA.

⁹⁴⁶ European Union Agency for Fundamental Rights (FRA) (2020), *Roma and Travellers in Six Countries: Roma and Travellers Survey*, Luxembourg, Publications Office of the European Union, p. 27.

⁹⁴⁷ European Union Agency for Fundamental Rights (FRA) (2023), *Being Black in the EU: Experiences of People of African Descent*, Luxembourg, Publications Office of the European Union, p. 37.

⁹⁴⁸ Survey data for 2004, 2010 and 2014, collected by the CSO, is available here: <https://www.cso.ie/en/statistics/surveys/qnhsmoduleonequality/>.

in 2019 and 2024.⁹⁴⁹ Moreover, just 3 % of persons who experienced discrimination made an official complaint, and only 1 % took legal action.

No issues of concern were identified in relation to the use of artificial intelligence. However, in the absence of case law, it is unclear whether the domestic legal framework can address discrimination that arises from the application of algorithms.⁹⁵⁰

⁹⁴⁹ See: <https://www.cso.ie/en/releasesandpublications/er/ed/equalityanddiscrimination2019/> and <https://www.cso.ie/en/releasesandpublications/ep/p-ed/equalityanddiscrimination2024/>.

⁹⁵⁰ There are concerns, for example, about access to the evidence required to establish a prima facie case of indirect discrimination, how the burden of proof would be applied and how objective justification would be interpreted in this context. See Foale, N. (2020), 'Back to the future: How well equipped is Irish employment equality law to adapt to artificial intelligence?', *Trinity College Law Review*, vol. 23, pp. 170-198.

12 LATEST DEVELOPMENTS IN 2025

12.1 Legislative amendments

There were no amendments to Irish anti-discrimination legislation in 2025.

As noted in Section 4.6.4(d), when the Employment (Contractual Retirement Ages) Act 2025 comes into force, it will allow, but not compel, employees to remain in work beyond a contractual retirement age until they reach state pensionable age (currently 66), unless the employer can objectively justify the retirement of that employee. The 2025 Act does not amend the Employment Equality Acts. It operates as a standalone law.

12.2 Case law

This section set outs a selection of the cases determined in 2025.

Age

Relevant discrimination grounds: Age

Name of the court: Labour Court

Date of decision: 24 July 2025

Name of the parties: *Deepak Fasteners (Shannon) Ltd. v. Murphy*

Reference number: EDA2545

Link: <https://www.workplacerelations.ie/en/cases/2025/august/eda2545.html>

Brief summary:

This Labour Court decision assessed the complainant's appeal of a WRC finding that the respondent was entitled to impose a mandatory retirement age.⁹⁵¹ Mr Murphy had been employed as a General Operative in the respondent's factory from 1977 until he was obliged to retire on reaching 65 years of age in 2022. The respondent declined his request to continue working for another year, at which point he would receive the state pension. The complainant's evidence was that he remained 'fit and competent' to carry out his job and that he had not been asked to undertake a risk assessment or occupational health assessment before he was compulsorily retired.

At first instance, the WRC had found that the dismissal was objectively justified. It accepted the respondent's evidence that the mandatory retirement age was necessary to advance the legitimate aims of succession planning and achieving a balanced age structure. However, the Labour Court disagreed, placing emphasis on the respondent's failure to develop a contemporary retirement policy in line with the Code of Practice on Longer Working. It considered that the company had 'hastily sought to construct a retrospective type of objective justification for its decision' when the complainant sought a contract extension. The respondent had not engaged 'in any meaningful way' with that request, it did not meet with the complainant and had 'no regard whatsoever' to the Code of Practice.

The complainant was awarded EUR 18 000 in compensation, the equivalent to approximately six months' gross pay.

Relevant discrimination ground: Age

Name of the court: Labour Court

Date of decision: 15 August 2025

Name of the parties: *An Garda Síochána v. Ronan*

Reference number: EDA2560

Link: <https://www.workplacerelations.ie/en/cases/2025/august/eda2560.html>

Brief summary:

⁹⁵¹ Workplace Relations Commission, *Murphy v. Deepak Fasteners (Shannon) Ltd*, ADJ-00040284, 9 May 2024, <https://www.workplacerelations.ie/en/cases/2024/may/adj-00040284.html>.

In this case, the Labour Court overturned a WRC decision, which had found that a civil servant was discriminated against on the age ground when he was forced to retire at 70. The WRC had directed the respondent to re-engage the complainant in his previous role for a period of three years. Prior to the Labour Court hearing, Mr Ronan's application for an interlocutory injunction enforcing that order was refused by the High Court. It found that where an appeal was pending, granting an injunction would 'subvert' the statutory scheme for determining EEA complaints. While the High Court has an inherent jurisdiction to grant such injunctions, it should only do so in 'exceptional circumstances', that is, where the statutory remedy has been 'wholly undermined'.⁹⁵²

The complainant worked as a driver for the police force and was compelled to retire on reaching the mandatory retirement age of 70 for persons employed in the civil service. That age is prescribed under the Public Service Superannuation (Age of Retirement) Act 2018. He argued that the application of the rule was disproportionate, since he would experience financial hardship due to his modest pension income. The respondent maintained that the issues arising in the case had been comprehensively addressed by the Supreme Court in *Mallon v. Minister for Justice* [2024] IESC 20. Its position was that a retirement age of 70 was objectively justified and there was no obligation to assess an individual's position.

The Labour Court considered that it was bound by the principles set out in *Mallon*. Mr Ronan's complaint could not succeed because the respondent's 'decision was nothing more than the implementation of the State's policy as embodied in the 2018 Act and that Act does not give any discretion to individual public sector employers to extend an individual public servant's employment beyond his or her seventieth birthday.' It set aside the decision of the WRC.

Disability

Relevant discrimination ground: Disability

Name of the court: Workplace Relations Commission

Date of decision: 7 November 2025

Name of the parties: *A Job Applicant v. A Garden Centre*

Reference number: ADJ-00052022

Link: <https://www.workplacerelations.ie/en/cases/2025/november/adj-00052022.html>

Brief summary:

The complainant in this case was a 27-year-old man with autism who applied for a part-time position at a garden centre through an agency that assists persons with disabilities to obtain employment. He attended an interview with the respondent's manager and accountant, and said he was led to believe that he had been hired to begin work the following day at a rate of EUR 12 per hour. The complainant worked for a full day with little direction or supervision. No one communicated with him about his working hours thereafter, and the following week, he received an email informing him that he was 'not the right fit' for the job. When he asked about wages for the day he had worked, he was informed that he would receive a EUR 100 voucher as a 'thank you', which left him feeling 'deeply devalued'. The complainant argued that he had been subjected to direct discrimination in the recruitment process and that no reasonable accommodation had been provided for his disability.

The respondent denied that it had employed the complainant. Rather it had arranged for an unpaid 'trial shift' to further assess the complainant's suitability, following what it described as 'a limited or nervous interview'. Such trials were common practice in the sector and had been used by the respondent for other candidates on numerous occasions. It further asserted that it was not aware of the complainant's disability.

⁹⁵² High Court, [Ronan v. Commissioner of an Garda Síochána & Ors](#) [2025] IEHC 79, 14 February 2025, Paras. 45–46.

The WRC upheld the discrimination complaint. It was satisfied that the respondent was on notice of the complainant's disability from the outset of the recruitment process. A representative of the agency that had arranged the interview gave evidence to that effect at the WRC hearing. The WRC noted that no other candidate was subjected to the requirement to undergo a 'trial day'. This amounted to direct discrimination on the disability ground. Further, the respondent did not comply with its obligation to provide reasonable accommodation. It 'failed to make any inquiry or adjustment' to ensure that the complainant 'could participate on an equal footing in the recruitment process'.

In deciding on redress, the WRC noted that the discrimination 'had a lasting negative impact' on the complainant's 'confidence and sense of self-worth'. The company was ordered to pay the worker EUR 5 000 in compensation. It was also directed to 'review and amend its recruitment and selection policies to ensure compliance with the Employment Equality Acts 1998–2015, specifically in relation to recognising and responding appropriately to applicants with disabilities; making reasonable inquiries and accommodations where disability is disclosed or reasonably inferred; and ensuring that any practical assessment or "trial" forms part of a structured and equitable recruitment process applied consistently to all candidates.'

Relevant discrimination ground: Disability

Name of the court: Workplace Relations Commission

Date of decision: 2 December 2025

Name of the parties: *A Sales Assistant v. A Retail Company*

Reference number: ADJ-00055729

Link: <https://www.workplacerelations.ie/en/cases/2025/december/adj-00055729.html>

Brief summary:

The complainant in this case worked as a sales assistant in a retail store. He asserted that he was subjected to discrimination and harassment on the disability ground, after he informed his manager that he had attention deficit hyperactivity disorder (ADHD). The complainant's evidence at the hearing centred on an incident involving the store manager. When he explained that he was having difficulty in completing an assigned task owing to ADHD, the manager said mockingly that he 'had a disability' and repeated this comment in front of other employees. The manager denied mocking the complainant but accepted that she might have repeated his statement about having a disability when instructing other staff to assist.

Based on the complainant's evidence and that of a witness, which was supported by an audio recording, the WRC was satisfied that the manager made a public reference to the complainant's disability 'in a sarcastic or dismissive tone'. The WRC noted that the impact of her remarks was 'clearly humiliating' and amounted to harassment under EEA. The respondent was liable for that unwanted conduct, because it did not demonstrate that it had taken any reasonably practicable steps to prevent harassment. There was no evidence of equality or disability training for store managers, nor any procedure for responding to a disclosure of a disability. The respondent had not contravened the reasonable accommodation duty, because the complainant had not requested any appropriate measures, nor was there evidence of less favourable treatment.

In assessing redress, the WRC observed that the 'incident was isolated but public and distressing'. It awarded the complainant EUR 6 000 in compensation and directed the respondent to arrange equality and disability awareness training for all managerial and supervisory staff within six months of its decision.

Relevant discrimination ground: Disability

Name of the court: Workplace Relations Commission

Date of decision: 6 January 2025

Name of the parties: *Tracy v. Smurfit Kappa Ireland Ltd t/a The Educational Company of Ireland*

Reference number: ADJ-00048355; ADJ-00046740

Links: <https://www.workplacerelations.ie/en/cases/2025/january/adj-00048355.html>;
<https://www.workplacerelations.ie/en/cases/2025/january/adj-00046740.html>

Brief summary:

In these interrelated cases, the WRC found that a salesperson was not afforded reasonable accommodation and was unlawfully dismissed on the disability ground.⁹⁵³ The complainant's job promoting and selling educational materials involved visiting schools and engaging with teachers about the content of the respondent's publications. Lifting boxes of books and carrying multiple books was undertaken by the complainant on those school visits for several years. From 2022, the complainant began to experience difficulties in lifting heavy objects due to Systemic Lupus Erythematosus (SLE). An occupational assessment concluded that the complainant was fit to remain in her role with an accommodation of not lifting items greater than 3 kg in weight. In effect, this meant that she was restricted to carrying one book. From March 2023, the respondent arranged for another staff member to accompany the complainant on school visits to carry out all lifting. In June 2023, further occupational health assessment recommended that the 3 kg manual handling restriction continue for at least a further six months. At that juncture, the respondent decided that the sales representative role was not viable for the complainant, and it asked her to consider moving to an alternative position at the company. The complainant declined that offer, as she believed that the alternative job did not align with her skills and experience. The respondent dismissed the complainant in August 2023.

The WRC found that the respondent had breached the reasonable accommodation duty, because it had failed to adequately assess whether the complainant was capable of continuing in her role with the provision of appropriate measures. Citing the Supreme Court's judgment in *Nano Nagle* the WRC underlined that appropriate measures may be physical, organisational and/or educational. The only limitation is disproportionality. The respondent had omitted to adequately consider adapting its sales model so as to obviate the need for the complainant to bring large quantities of books on school visits. Options such as posting books or using digital publications were discounted without an adequate assessment of whether they would impose a disproportionate burden. The respondent had made little effort to explore whether public funding was available by way of support for reasonable accommodation for the complainant. Having regard to the CJEU's judgment and the Advocate General's opinion in *HR Rail* (C-485/20), the WRC found that the respondent's offer of an alternative position did not relieve it of its primary obligation to reasonably accommodate the complainant in the salesperson role. The WRC noted that assignment to another position 'may well constitute an appropriate measure where it is not a disproportionate burden however ... the difficulty with it being so in this case is that the offer was made as a solution to the respondent's decision that the complainant could not undertake the duties of educational sales representative.' The respondent's determination that the complainant was not capable of fulfilling the duties of the role contravened the reasonable accommodation provision under EEA, and the termination of the complainant's employment as a result constituted a discriminatory dismissal.

Ms Tracy was awarded EUR 35 000 in compensation for discriminatory dismissal and EUR 29 000 for the respondent's failure to provide reasonable accommodation.

Relevant discrimination ground: Disability

Name of the court: Workplace Relations Commission

Date of decision: 6 November 2025

Name of the parties: *Musinska v. Oak Central Recruitment Services Limited*

⁹⁵³ The complainant referred two complaints, one concerned reasonable accommodation while she was employed, while the other related to her dismissal. The WRC heard the complaints together but issued two separate decisions.

Reference number: ADJ-00053914

Link: <https://www.workplacerelations.ie/en/cases/2025/november/adj-00053914.html>

Brief summary:

The complainant was employed as a warehouse worker and developed allergic eczema in reaction to the cosmetic products she was handling. She was dismissed after approximately four months, having repeatedly taken sick leave related to that condition. Her WRC complaint alleged that the dismissal amounted to direct discrimination on the disability ground and that the respondent had also breached the reasonable accommodation duty. The respondent disputed that eczema comprised a disability under EEA.

The WRC noted that previous EEA case law had not considered whether eczema was covered by the definition of disability. Medical reports by her GP certified the complainant as unfit to work on three occasions and had described the skin on her hands as being 'really bad', 'very broken', 'itchy' and 'weeping'. Having regard to that evidence, the WRC was satisfied that the eczema resulted in a 'malfunction' of the complainant's hands and so amounted to a disability for the purposes of Section 2 EEA. In so finding, it noted that there is no requirement for the disability to be long term, referencing the Labour Court's decision in *Customer Perception Ltd v. Leydon* (EED0317), which held that a temporary injury constituted a disability.

The respondent was aware of the disability and had provided the complainant with gloves, which were standard personal protective equipment (PPE) available on site. However, wearing the gloves did not alleviate the eczema. The WRC observed that despite this and considering the complainant's 'repeated absences and return-to-work interviews, the Respondent failed to carry out a risk assessment and/or refer the Complainant for an occupational health review neither of which would have been burdensome.' The employer had thereby failed to provide reasonable accommodation.

According to the complainant, she was informed that her employment was terminated due to excessive sick leave a week after she had returned to work following such leave. The respondent denied this. It referred to three different reasons for the dismissal: the end of a seasonal contract, failure to pass probation and redundancy due to a downturn in work. Absent adequate evidence supporting the respondent's assertions and given the proximity between the dismissal and the complainant's sick leave, the WRC concluded that the complainant was dismissed because of her disability.

The complainant was awarded EUR 13 000 in compensation. EUR 8 000 of that award related to the discriminatory dismissal, which the WRC said was based on the principle that any award should be effective, proportionate and dissuasive, and also took into account the short duration of the complainant's employment. The balance was compensation for breach of the reasonable accommodation duty.

Relevant discrimination ground: Disability

Name of the court: Workplace Relations Commission

Date of decision: 24 November 2025

Name of the parties: *Dempsey v. Irish Prison Service*

Reference number: ADJ-00043513

Link: <https://www.workplacerelations.ie/en/cases/2025/november/adj-00043513.html>

Brief summary:

The complainant began her employment as a prison officer with the respondent in 2008. In 2017, she sustained multiple injuries at work when assaulted by a prisoner. Following the incident, she experienced chronic back pain, requiring her to undergo ongoing specialised treatment. The complainant had not returned to work and remained on sick leave since the assault in 2017. An occupational assessment certified the complainant as unfit for prisoner contact or manual duties and advised that she should return to work in an office-based capacity. While the complainant was on sick leave, she obtained the

qualifications required for the role of Work Training Officer ('WTO'). She then applied for and was offered such a position by her employer, the Irish Prison Service. The WRC complaint centred on the fact that she was never permitted to start this role. Relying on the CJEU's finding in C-485/20, *HR Rail*, the complainant asserted that the respondent breached its reasonable accommodation duty by preventing her from resuming employment in an alternative role to the one she was originally hired for.

The duties attached to the WTO job were contested by the parties to the case. The respondent argued it was not possible to re-deploy the complainant as a WTO, as all positions involved prisoner contact or the potential for prisoner contact. The complainant argued that the WTO role is primarily an office-based one, even though, in some prisons, some WTOs do not perform the role on a full-time basis, owing to having to fill in for staff shortages.

The WRC upheld the complaint. It did not refer to *HR Rail*, relying instead on the Supreme Court's ruling in *Nano Nagle School v. Daly* [2019] IESC 63, which examined the obligations of an employer to provide reasonable accommodation for an employee with a disability. The WRC also referred to the High Court judgment in *Cunningham and Irish Prison Service* [2020] IEHC 282, where the Court underlined that EEA provides 'rights of real substance to persons of disability, who wish to enter or remain in work'. The WRC accepted the complainant's argument that full-time WTO roles are available in various prisons throughout the country that do not entail carrying out general prison-officer duties, and while such a need arises exceptionally, it could be dealt with by way of reasonable accommodation.

The respondent was ordered to pay EUR 60 000 in compensation for failing to afford the complainant reasonable accommodation by enabling her to return to work. It was also directed to fulfil its reasonable accommodation duty by finding a suitable position for the complainant, with her input, within three months of the decision.

Relevant discrimination ground: Disability

Name of the court: Workplace Relations Commission

Date of decision: 3 June 2025

Name of the parties: *O'Doherty v. Gleeson Concrete*

Reference number: ADJ-00053346

Link: <https://www.workplacerelations.ie/en/cases/2025/june/adj-00053346.html>

Brief summary:

The complainant in this case worked as a driver for the respondent company. In 2017, his vision was significantly impaired due to a workplace accident, and despite recovering his sight to some extent he was ultimately certified as medically incapable of performing the role for which he was originally hired. The complainant was dismissed for incapacity in 2024.

The WRC found that the company had complied with its duty to provide reasonable accommodation. Across the complainant's seven-year period of sick leave, it had arranged numerous medical tests and occupational assessments. The complainant was offered a clerical role on a trial basis in 2021, which he left after two weeks, because his eyesight had not sufficiently recovered at that juncture. Another person was then hired for that office-based role. When the decision to dismiss the complainant was made in 2024, there were no vacancies in the company, including in the office, which was staffed by four people at the time of the WRC hearing.

The WRC had regard to *HR Rail* (C-485/20) and *Ca Na Negreta* (C-631/22) in assessing whether the worker should have been assigned another role within the company. It noted that while the Irish Supreme Court's judgment in *Nano Nagle* found there was no such obligation, in *Negreta* the CJEU confirmed that reassignment could be an appropriate

measure depending on the circumstances of the enterprise. The WRC concluded that appointment to a job in the office, where no vacancy existed, would have placed a disproportionate burden on the respondent. The respondent was entitled to dismiss Mr O'Doherty for incapacity, as he was permanently incapable of performing his original job.

Race

Relevant discrimination ground: Race

Name of the court: Workplace Relations Commission

Date of decision: 11 April 2025

Name of the parties: *Daradics v. James White & Company Unlimited Company t/a The King Thomond Hotel*

Reference number: ADJ-00053723

Link: <https://www.workplacerelations.ie/en/cases/2025/april/adj-00053723.html>

Brief summary:

The Romanian complainant in this case lived in the respondent's staff accommodation and was subjected to racist abuse by another resident and employee. According to her uncontested evidence, the perpetrator, who was an Irish national shouted at the complainant: 'Go back to your f**king country, you f**king Romanians.' She reported the incident to her line manager. An assistant manager took informal steps to investigate the allegation, although this process was not concluded, because the complainant had resigned from her post in the interim.

The WRC found that unwanted conduct comprising harassment occurred and that the respondent was liable for it. It could not avail of the defence under Section 14A(2). The defence applies where the employer can show that it took 'reasonably practicable' steps to prevent harassment and to reverse its effects. The employer in this case 'failed to provide adequate training or to communicate effective policies and procedures in respect of bullying, harassment, and sexual harassment. This failure extended not only to the workplace but also to the staff accommodation, which was under the Respondent's direct control and formed part of the Complainant's terms and conditions of employment.' Further, while the gravity of the incident had been acknowledged, the employer did not take any follow-up action to ensure that all staff were advised of their obligations under EEA. The complainant was awarded EUR 7 000 compensation.

Relevant discrimination ground: Race

Name of the court: Workplace Relations Commission

Date of decision: 20 June 2025

Name of the parties: *Oliveira v. St Vincent's University Hospital*

Reference number: ADJ-00055087

Link: <https://www.workplacerelations.ie/en/cases/2025/june/adj-00055087.html>

This complaint centred on an essential job criterion set by the respondent for the role of Senior Finance Manager. The position was advertised internally, and the complainant was not shortlisted because he did not have a professional accountancy qualification from three specified bodies: ACA (Associate Chartered Accountant), the Association of Chartered Certified Accountants (ACCA), or the Chartered Institute of Management Accountants (CIMA). The complainant obtained his internationally recognised accountancy qualification in Brazil and argued that the criterion was indirectly discriminatory on the race ground.

The WRC found that the criterion was liable to place non-Irish nationals at a disadvantage, since the listed qualifications are more likely to be possessed by Irish candidates. However, it was objectively justified. The legitimate aim was ensuring that a senior accountant would have a qualification that demonstrated knowledge of relevant Irish accounting regulatory requirements. In the WRC's assessment, the impugned provision was also necessary and appropriate to achieve that aim. The qualification requirement was necessary to meet

specific regulatory obligations at a senior accountant level. The complainant's accountancy qualification was not equivalent to those provided by the ACA, ACCA and CIMA, as unique regulatory requirements apply in the national context, and a detailed understanding and assessment of those requirements were met by having the specified qualifications. Further, the respondent provided study leave and financial support to staff, including the complainant, so that competence in the necessary subjects required by the relevant and preferred accounting bodies specified in the competition could be obtained.

Relevant discrimination ground: Race**Name of the court:** Workplace Relations Commission**Date of decision:** 11 September 2025**Name of the parties:** *A Service User v. An Accommodation Service***Reference number:** ADJ-00049099**Link:** <https://workplacerelements.ie/en/cases/2025/september/adj-00049099.html>**Brief summary:**

The complainant in this case was living in hostel accommodation operated by the respondent. He alleged that he was subjected to direct discrimination on the colour element of the race ground by the respondent's security staff when he sought to complain about an employee's aggressive behaviour towards him the previous evening. His evidence was that the workers used racist language, expelled the complainant from the building, confiscated his phone and deleted a video he had recorded of the incident. The respondent denied that its employees had engaged in any discriminatory conduct, asserting that the complainant was excluded from its premises because of his aggressive behaviour and racist remarks.

The WRC preferred the complainant's evidence. It found that an incident report submitted by the respondent did not support its version of events. Notes about the exchange with the complainant that were purportedly contemporaneous referred to incidents that occurred afterwards. It was also satisfied that the only plausible explanation for obtaining the complainant's phone was to delete the video he had alluded to. Moreover, the complainant was ejected from the accommodation by a manager based solely on the evidence of other staff; the complainant was not afforded an opportunity to explain his version of events. The complainant was awarded EUR 2 000 compensation for the effects of the discrimination.

Relevant discrimination ground: Race**Name of the court:** Workplace Relations Commission**Date of decision:** 10 October 2025**Name of the parties:** *Gao v. Eskimo Gao Ming Limited Lam's Asian Cuisine and Eskimo Pizza***Reference number:** ADJ-00053911**Link:** <https://www.workplacerelements.ie/en/cases/2025/october/adj-00053911.html>**Brief summary:**

The complainant in this case was a Chinese national who was employed as a chef in the respondent's restaurant. His claim was essentially one of labour exploitation and raised breaches of multiple employment laws, including the prohibition of discrimination on the race ground under EEA.

Mr Gao came to Ireland on an employment permit in 2022. The WRC found that he was illegally forced to pay EUR 30 000 to the respondent employer as a charge for sponsoring that permit. Over the subsequent two years, the complainant was paid below the minimum wage, did not receive mandated rest breaks, was required to work beyond the legal maximum of 48 hours per week and was not granted annual leave or public holiday pay. The respondent also took possession of Mr Gao's passport, which was returned following intervention by An Garda Síochána (the Police). Nine separate awards of compensation,

totalling EUR 94 828, were made for violations of the worker's rights under several employment laws.

The complainant also successfully argued that he was also subjected to racial discrimination under EEA. The WRC referred to a previous Equality Tribunal decision, which established that a similar pattern of 'complete disregard' for employment law in relation to a South African national employed as a nanny amounted to discrimination on the race ground (*A Domestic Worker v. An Employer*, DEC-E2011-117). The Tribunal reasoned that an Irish employee would not have been treated in such a manner. According to the WRC, Mr Gao's case was similar, and included additional factors in that his passport was withheld and an unlawful recruitment payment was imposed. It concluded that an Irish person would not have been treated in the same manner as the complainant and he was, therefore, discriminated against. Because of the 'very serious' discrimination in issue, the respondent was directed to pay EUR 60 000 compensation, the maximum possible award (which would be equivalent to two years' salary with reference to the national minimum wage). He was, therefore, awarded a total of EUR 154 828 in compensation. Mr Gao was represented by a civil society organisation, the Migrant Rights Centre Ireland, which had also represented the complainant in the 2011 case alluded to the WRC's decision.

Relevant discrimination ground: Race; Gender

Name of the court: Workplace Relations Commission

Date of decision: 17 November 2025

Name of the parties: *Nae v. Tempside Ltd Polonez*

Reference number: ADJ-00046437

Link: <https://www.workplacerelations.ie/en/cases/2025/november/adj-00046437.html>

Brief summary: The complainant in this case sought to argue that she was subjected to direct discrimination on the combined grounds of race and gender and harassed on those grounds. At issue was alleged treatment of a woman of Romani ethnicity when she sought access to the respondent's supermarket. Her evidence was that a security person denied her permission to enter, while her Roma husband was not stopped. When she asked for the reason, he informed her that 'gypsies are not allowed in the shop'. A second security guard told her that they had orders from management not to admit Roma women. The respondent denied that any such incident had occurred.

The WRC's assessment of the complaint centred on whether intersectional discrimination was prohibited under the Equal Status Acts. It considered that the essence of the complainant's argument was that she was excluded because she was a Romani woman, and that discrimination based on a 'combination of race and ethnicity' comes within the ambit of the Act. The complainant acknowledged that intersectional claims were not expressly provided for but contended that a purposive interpretation of the law should be adopted to recognise such claims. Having reviewed the legislation and the case law highlighted by the complainant, the WRC disagreed.

It found that while several discrimination complaints had recognised discrimination on multiple grounds, the role of each ground was discernible in those cases. For instance, in *O'Brien v. Computer Scope Limited* (DEC E2006-030), an equal-pay complaint on the age and gender grounds, 'the finding of discrimination on gender grounds could survive intact, was viable and was not dependent on the fact that her comparator was older than her. Separately the comparator was older and separately was male. It was gender and age. She had a comparator on both separate single grounds.' The WRC also assessed the most relevant legislative provision. Section 25(1A) ESA states that claims 'to have been discriminated against on more than one of the discriminatory grounds ... shall be investigated as a single case ... but a decision shall be made on each of the claims.' In the WRC's assessment, this 'section would seem to apply that complaints on different grounds are separate, distinct and viable in their own right.' The WRC, therefore, could not 'accept that this complaint, based not on two discrete grounds, but on an interdependence of two

grounds confers cover under a protected ground. Given that conclusion, I find that the complainant is unable to make out a *prima facie* case of discrimination based on two grounds neither of which is viable nor capable of surviving independently.'

The WRC also determined that there was insufficient evidence to support the harassment complaint. There were inconsistencies in the complainant's evidence and the roster for the day in question showed that one security guard, not two as the complainant asserted, were on duty. Consequently, the complainant did not establish a *prima facie* case.

Relevant discrimination ground: Race

Name of the court: High Court

Date of decision: 26 November 2025

Name of the parties: *XTX Markets Technologies Limited v. Aviva Investors Liquidity Funds PLC*

Reference number: [2025] IEHC 651

Link: https://ww2.courts.ie/view/Judgments/337e6eda-5722-476d-bf15-e75266fb9a23/19c5701c-d38f-42be-923f-1f1ea37b86a5/2025_IEHC_651.pdf/pdf

Brief summary:

This case addressed the standing of legal persons to pursue discrimination claims under the Equal Status Acts 2000–2018 (ESA). In 2023, the Workplace Relations Commission (WRC) dismissed an ESA complaint referred by a limited company on the nationality element of the race ground.⁹⁵⁴ The respondent investment fund refused to provide financial services to the complainant, a company incorporated in the UK, owing to concerns about EU sanctions affecting its Russian-born founder and ultimate beneficial owner. In line with its previous decisions, the quasi-judicial body determined that only natural persons are afforded protection against discrimination. On appeal, the Circuit Court reached the same conclusion.⁹⁵⁵

The complainant appealed the Circuit Court's finding on a point of law to the High Court. It argued that the WRC and the Court had erred in holding that *locus standi* was confined to natural persons. Section 2 ESA defines 'person' to include bodies corporate but expressly limits this definition to respondents. No definition of 'person' is provided as regards complainants. The company argued that in the absence of a clear definition to the contrary, the term 'person' should be afforded the broad definition provided for under the Interpretation Act 2005, which codifies principles of statutory interpretation. Section 18(c) of the 2005 Act provides that the term 'person' 'shall be read as importing a body corporate (whether a corporation aggregate or a corporation sole) and an unincorporated body of persons, as well as an individual ...'. The company also pointed to the express inclusion of discrimination by association under Section 3(1)(b) ESA and to CJEU case law, which recognises that a person without a protected characteristic can be subjected to discrimination on a ground because of their association with a person with that characteristic. It contended that the WRC and the Circuit Court failed to engage with its argument that since a limited company could avail of protection from discrimination by association, it need not itself possess a personal, human characteristic.

The respondent argued that by defining 'person' only for respondents, the Oireachtas intended to exclude legal persons as complainants. It relied on previous Tribunal and WRC case law to that effect (see section 3.1.2 of this report for a discussion of that case law).

The High Court engaged in a detailed exercise of statutory interpretation, informed by the provisions of the Interpretation Act 2005, the structure and purpose of ESA, an analysis of

⁹⁵⁴ Workplace Relations Commission, *XTX Markets Technologies Limited v. Aviva Investors Liquidity Funds PLC*, ADJ-00044913, 8 November 2023, <https://www.workplacerelations.ie/en/cases/2023/november/adj-00044913.html>.

⁹⁵⁵ Circuit Court, *XTX Markets Technologies Limited v. Aviva Investors Liquidity Funds PLC* [2024] IECC 18, 24 October 2024.

Directive 2000/43, and the CJEU's judgments in *Coleman* (C-303/06) and *Chez* (C-83/14). It concluded that the 'substance and tenor' of ESA did not reveal a contrary intention that would exclude legal persons from bringing claims, and that interpreting 'person' to include legal persons produces neither absurdity nor conflicts with the statutory text. Had the Oireachtas intended to confine protection to natural persons, it could have expressly provided for that approach. Support for that finding was found in Recital 16 of Directive 2000/43, which expressly contemplates that Member States should provide protection for legal persons discriminated against based on the racial or ethnic origin of their members. Moreover, the decision in *Coleman* 'makes crystal clear that EU law requires Member States to afford protection against less favourable treatment on protected grounds whether the ground is personal to the claimant themselves or not' (Para. 134). The Court elaborated that the reference to Recital 16 in *Chez* 'to support a broader interpretation of the scope of the Directive similarly supports a conclusion that the 2000 Act, construed in line with EU law, should be read as applying to "all" persons, legal and natural' (Para. 137).

The High Court set aside the Circuit Court's decision and held that a legal person can be a complainant under ESA where it alleges discrimination on any of the protected grounds, including by association, as envisaged under Section 3(1)(b). The case was remitted to the WRC for a full hearing on the merits of the discrimination claim. At the time of writing, that case was pending before the WRC.

Relevant discrimination ground: Race

Name of the court: Workplace Relations Commission

Date of decision: 2 December 2025

Name of the parties: *Reid v. Murrays Ambulance Service*

Reference number: ADJ-00052844

Link: <https://www.workplacerelations.ie/en/cases/2025/december/adj-00052844.html>

The complainant was employed as an Emergency Medical Technician (EMT). She was summarily dismissed following an incident that had occurred during her probationary period. The complainant had permitted a patient to smoke outside of the ambulance in which he was travelling and she was informed that her behaviour amounted to gross misconduct, warranting her immediate dismissal. However, the complainant, a black woman, argued that the termination of her employment was discriminatory, because a second EMT, a white woman, who had participated equally in facilitating the same patient, was only issued a warning and was retained in employment.

The complaint of direct discrimination on the race ground was upheld. The WRC was satisfied that the complainant's evidence about the disparate treatment afforded her and the comparator established a *prima facie* case of discrimination. It also transpired that the second colleague involved in the incident, Ms A, had reported it to the respondent, claiming that the complainant had acted alone. The WRC noted that it was evident from the statement Ms A had provided to the respondent 'that she had prior issues with the complainant and should, at a minimum, have caused the respondent to delve into the prior history between the two.' The complainant was not afforded the opportunity to read and, therefore, contest Ms A's version of events. The WRC found that the respondent could not rebut the inference of discrimination. It pointed to the procedural flaws in how the matter was handled by the respondent and queried why Ms A was 'believed without question'.

The complainant was awarded compensation of EUR 32 000 for the discriminatory dismissal, the equivalent of one year's salary.

Relevant discrimination ground: Race

Name of the court: Workplace Relations Commission

Date of decision: 11 December 2025

Name of the parties: *Gvazdauskas v. Health Service Executive*

Reference number: ADJ-00042605

Link: <https://www.workplacerelations.ie/en/cases/2025/december/adj-00042605.html>

Brief summary:

The complainant applied for the role of porter/driver with the respondent and was offered the post. However, the job offer was withdrawn, because he could not provide a 'driver statement' from the National Driver Licence Service (NDLS). A driver statement is an official record that confirms a person's licence details and penalty points acquired for motoring offences, if applicable. Because the complainant held a driving licence from Lithuania, he could not obtain an NDLS driver statement; however, he provided letters from the NDLS and the Lithuanian licensing authorities, which showed he had a clean driving record. His WRC complaint alleged that the driver statement criterion constituted indirect discrimination on the nationality element of the race ground.

The WRC noted that applicants with foreign driving licences were not precluded from applying for the job. Yet the imposition of an additional, apparently neutral, requirement to obtain an NDLS driver statement placed non-Irish nationals at a disadvantage in the recruitment process. The provision was not objectively justified, because the respondent did not set out any legitimate aim in its engagement with the complainant. It had 'simply restated the requirement and emphasised that it was flagged from the outset of the recruitment process. The hiring manager's only feedback on the issue aside from this related to an apparently mistaken view that the Complainant should have taken up an Irish licence after 12 months.' At the hearing, the respondent sought to argue that the impugned provision enabled it to ascertain whether candidates had endorsements on their driving licences. However, according to the WRC, it could not establish that the means of pursuing that aim were appropriate and necessary. Mr Gvazdauskas had supplied documents demonstrating that he had a clean driving record, which the respondent declined to accept.

The WRC considered that the discrimination had a significant impact on the complainant's career progression. He was prevented from taking up a permanent public sector role he had won through open competition with an employer he had a long-term working relationship with. It awarded him the maximum possible sum of EUR 13 000. The WRC also ordered the HSE to initiate a review of its selection criteria in roles for drivers in the organisation and to write to the Irish Human Rights and Equality Commission within six months to outline the findings of that review and seek feedback on whether it was meeting its legal obligations.

Sexual orientation

Relevant discrimination ground: Sexual orientation

Name of the court: Workplace Relations Commission

Date of decision: 31 March 2025

Name of the parties: *Slattery v. Liberties Recycling Training & Development Company Limited*

Reference number: ADJ-00049962

Link: <https://www.workplacerelations.ie/en/cases/2025/march/adj-00049962.html>

Brief summary:

This case centred on harassment on the sexual orientation ground. The complainant was subjected to homophobic remarks by another employee, Mr B, on several occasions. It was also established that Mr B had grabbed the complainant by the neck, with the WRC noting that other staff 'had to physically intervene to keep' the perpetrator 'away from the complainant'. On a previous occasion, Mr B had grabbed and squeezed the complainant's hand violently when shaking it. He then shook another colleague's hand, while saying: 'Watch how I shake a real man's hand'.

The WRC found that the respondent was liable for the harassment experienced by Mr Slattery. The company failed to take reasonably practicable steps to prevent the harassment, as required to avail of the statutory defence under Section 14A(2). It failed

to follow its dignity at work procedures when Mr Slattery notified a manager of the 'handshake' incident. While the complainant had not lodged a formal complaint at that time, the respondent should have taken some action at that point, especially given that Mr B had previously been disciplined for an incident where he had been involved in an altercation with another staff member. The respondent was directed to pay the complainant EUR 12 000 in compensation. Further complaints of less favourable treatment and victimisation were not sustained on the facts.

Traveller community

Relevant discrimination ground: Traveller community

Name of the court: Workplace Relations Commission

Date of decision: 19 August 2025

Name of the parties: *O'Connor v. Ballymaley Stores Limited*

Reference number: ADJ-00052755

Link: <https://www.workplacerelations.ie/en/cases/2025/august/adj-00052755.html>

Brief summary:

The complainant was employed by the respondent supermarket as a store supervisor on a fixed-term contract but was dismissed at end of his probationary period. While the respondent asserted that its decision to terminate Mr O'Connor's employment was performance-related, the WRC found that the dismissal constituted direct discrimination on the Traveller community ground.

At the WRC hearing, the complainant testified that on multiple occasions, managers had used derogatory language to describe members of the Traveller community. He had also been directed to follow Traveller customers around the store. On one occasion, he refused to do so and explained to the manager that some of those customers were related to him. The complainant described a change in the store manager's demeanour and treatment of him after that incident. He was dismissed within three days and in the interim had been assigned to cleaning duties in a warehouse for two successive days and instructed not to handle cash. The respondent denied that its staff had engaged in discriminatory behaviour and maintained that they were unaware of the complainant's ethnicity.

The WRC was satisfied that the manager who dismissed the complainant knew Mr O'Connor was a Traveller from at least the date of the incident concerning his relatives. It observed that throughout his four weeks of employment, no concerns were raised about the complainant's performance, apart from one minor incident relating to use of a mobile phone while on the shop floor. The WRC also accepted the complainant's evidence 'that it was unusual for him to be sent to the warehouse for two days, when his responsibilities were for security and supervision'. These facts, coupled with the respondent's failure to provide the complainant with the reasons for dismissing him, led the WRC to conclude that the dismissal was discriminatory.

Mr O'Connor was awarded EUR 13 000 compensation, the equivalent to approximately 26 weeks' gross pay. The WRC also directed the respondent to 'consult with an advocacy body for the Traveller community and to provide training for managers regarding the promotion of dignity and respect in the workplace'.

Relevant discrimination ground: Traveller community

Name of the court: Workplace Relations Commission

Date of decision: 25 August 2025

Name of the parties: *Nevin v. Cpf (Profiles) Ltd.*

Reference number: ADJ-00054368

Link: <https://www.workplacerelations.ie/en/cases/2025/august/adj-00054368.html>

Brief summary:

The complainant, a member of the Traveller community, claimed he was discriminated against during his interview and throughout his employment with the respondent. At the interview, the Managing Director (MD) had asked detailed questions about the complainant's address, family name and father, which the complainant believed were aimed at identifying his ethnicity. During his short period of employment, he heard the MD use derogatory terms such as 'pikey', 'tinker' and 'itinerant'. The complainant told the WRC that the remarks, although not directed at him, created a 'horrendous and unbearable' work environment and led him to resign after three weeks.

At the hearing, the MD acknowledged that most of what Mr Nevin had relayed was 'correct'. The MD conceded he might have used the word 'pikey', could not recall using other terms but said that if he had done so, it would have been as a joke. He acknowledged that using such language was unacceptable. The WRC considered there was a 'culture and tolerance' of using 'derogatory terminology' about Travellers at the company. The complaint was upheld and Mr Nevin was awarded EUR 7 500 compensation. Further orders directed the company to conduct a review of its selection processes to ensure compliance with EEA, to adopt an equal opportunities policy, to provide comprehensive staff training on equal opportunity and to maintain a record of all such training to ensure it will apply to existing and new employees.

ANNEX 1: TABLE OF INTERNATIONAL INSTRUMENTS

Country: Ireland
Date: 1 January 2026

Instrument	Date of signature	Date of ratification	Derogations/ reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
European Convention on Human Rights (ECHR)	04.11.1950	25.02.1953	No	Yes	Yes, in an interpretative sense, under the European Convention on Human Rights Act 2003
Protocol 12, ECHR	04.11.2000		No	No	No
Revised European Social Charter	04.11.2000	04.11.2000	Article 8(3), Article 21, Article 31(1), (2) and (3).	Yes (international NGOs only)	No
International Covenant on Civil and Political Rights	01.10.1973	08.12.1989	Article 10(2)	Yes	No
Framework Convention for the Protection of National Minorities	01.02.1995	07.05.1999	No	N/A	No
International Covenant on Economic, Social and Cultural Rights	01.10.1973	08.12.1989	A reservation applies with respect to article 2(2). In order to promote use of the Irish language knowledge of Irish may be required or given favourable consideration for certain occupations.	No	No

Instrument	Date of signature	Date of ratification	Derogations/ reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
Convention on the Elimination of All Forms of Racial Discrimination	21.03.1968	29.12.2000	No	Yes	No
ILO Convention No. 111 on Discrimination	Signed (no dates available)	22.04.1999	No	No	No
Convention on the Rights of the Child	30.09.1990	28.09.1992	No	Yes	No
Convention on the Rights of Persons with Disabilities	30.03.2007	20.03.2018	Articles 12, 14, 27(1)	Yes	No

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