

# Irish Human Rights and Equality Commission

Experience to date of Directive 2014/54/EU  
Equinet– December 2015

# Creation and designation of IHREC

- ▶ Combined human rights and equality mandate.
- ▶ Established 1 November 2014, by the Irish Human Rights and Equality Commission Act, 2014.
- ▶ Section 10(2)(i) provides:

“The Commission shall...have..the following functions:

To be the body designated for the purposes of Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement of workers;”

# The Directive

- ▶ Article 1 – judicial procedures for the enforcement of obligations under Article 45 TFEU and Regulation 492/2011 to be available to EU workers and family members who have experienced unjustified restrictions and obstacles to their right to free movement or in respect of a failure to apply the principle of equal treatment

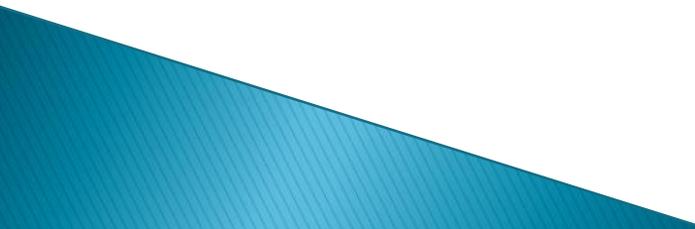
# The Directive

Article 4–Directive 2014/54/EU requires the designated body to:

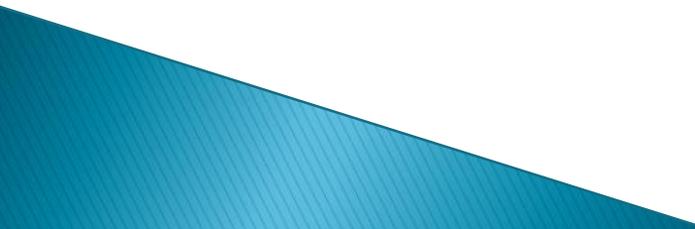
- ▶ Promote;
- ▶ Analyse;
- ▶ Monitor;
- ▶ Support;

the equal treatment of Union workers and members of their family on grounds of nationality

# Legal / other assistance

- ▶ The designated body must also have the competence to provide legal and/or other assistance to EU workers and their families in vindicating their rights.
  - ▶ **2 main questions:**
  - ▶ 1. Does IHREC Act properly transpose the Directive?
  - ▶ 2. Does IHREC have the relevant competence in relation to the provision of legal/ other assistance?
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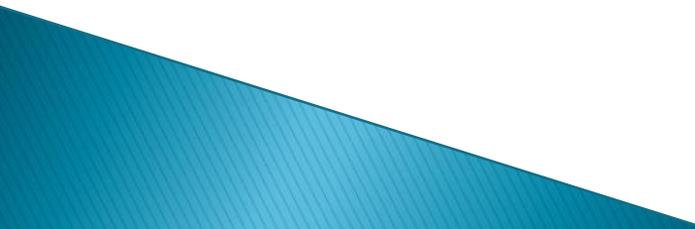
# Legal & Other Assistance

- ▶ IHREC Act:
  - ▶ IHREC's competence extends to providing information on human rights and equality rights to the public, and also providing legal and other assistance to individuals seeking to vindicate their rights—competence broadly in compliance with the Directive.
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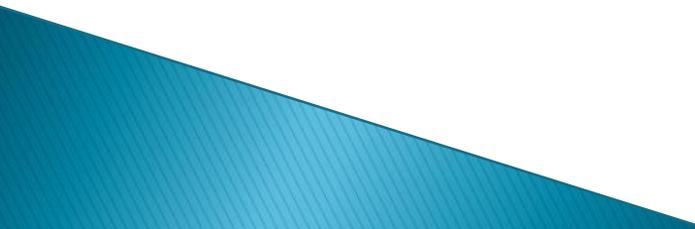
# Legal Assistance

- ▶ In relation to legal assistance “human rights” include:
- ▶ (b) the rights, liberties or freedoms conferred on, or guaranteed to, persons by any agreement, treaty or convention to which the State is a party and which has been given force of law in the State or by a provision of any such agreement, treaty or convention which has been given such force...

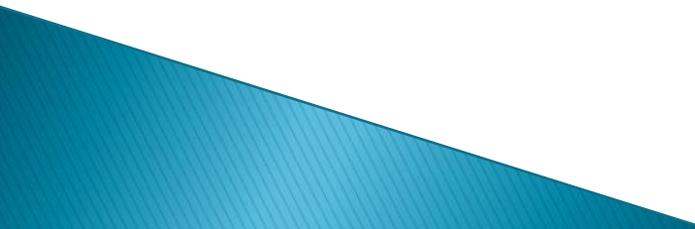
# Legal /Other assistance

- ▶ Advice received by IHREC:
  - ▶ Definition of “human rights” is sufficiently wide to include Art 45 TFEU and therefore Arts 1–10 of Regulation 492/2011;
  - ▶ Directive has direct effect, and therefore IHREC has competence even legislation did not already include this competency.
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# Challenges & Opportunities

- ▶ Irish Equality law already encompasses “nationality” based discrimination within the Race ground and therefore does the Directive go further?
  - ▶ Restrictions or obstacles to the rights of EU workers and their families in exercise of EU treaty rights, (which rights are not conferred on non-EU workers), broadens competency to provide legal assistance beyond prohibition of discrimination based on nationality.
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# Opportunity

- ▶ E.g IHREC presently dealing with case of a Polish national in Ireland who alleges that she has experienced numerous breaches of her employment law rights, including the right to equal treatment on the ground of her nationality.
  - ▶ In the absence of being designated under Directive 2014/54/EU, IHREC could only provide advice and representation in relation to alleged breach of Employment Equality Acts on ground of nationality, but.....
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# Opportunity

...on the basis that the person is exercising her EU treaty rights to live and work in Ireland, and she has experienced an “unjustified obstacle” to the exercise of those rights, IHREC may also provide her with legal assistance in relation to the breaches of her other employment rights in Ireland, together with her discrimination claim.

# Challenge or Opportunity?

- ▶ IHREC now has broader competence in dealing with breaches of employment rights of EU workers, than it does in relation to employment rights of Irish or non EU workers.
- ▶ E.g a worker from Africa working in Ireland who suffers a breach of their employment rights, but does not come within the Employment Equality Acts, will not come within the competence of IHREC.