

Compatibility of a Targeted Redress Scheme for Workhouse Survivors with the European Convention on Human Rights

Summary

This briefing examines the compatibility of a targeted redress scheme limited to unmarried mothers and their children confined in workhouses with the European Convention on Human Rights (ECHR). It analyses the rationale provided by The Executive Office (TEO) for excluding workhouse survivors from the proposed Standardised Payment Scheme and considers relevant jurisprudence of the European Court of Human Rights (ECtHR), including *Stec and Others v. United Kingdom* (2006) and *Thlimmenos v. Greece* (2000). The analysis concludes that a harm-based, gender-sensitive redress scheme would be consistent with Articles 14 and 1 of Protocol No. 1 ECHR and fall within the legislative competence of the Northern Ireland Assembly under Section 6 of the Northern Ireland Act 1998.

1. Background

In public statements and correspondence, TEO has indicated that workhouses are to be excluded from the proposed Standardised Payment Scheme due to legal and equality concerns arising under the European Convention on Human Rights (ECHR). According to TEO, because the scheme would make payments on the basis of residence within an institution, all workhouse residents—married and unmarried men and women, and children—would be legally 'similarly situated.' Under the interaction of Article 1 of Protocol No. 1 (protection of property) and Article 14 (non-discrimination), it argues that confining eligibility to unmarried women and their children could be viewed as discriminatory and thus beyond the legislative competence of the Northern Ireland Assembly under Section 6 of the Northern Ireland Act 1998.

TEO has suggested that while the Information, Acknowledgement and Payment

(IAP) process may define eligibility more narrowly, the Standardised Payment Scheme cannot lawfully do so.

2. Position of the Northern Ireland Human Rights Commission (NIHRC)

In correspondence dated October 30, 2025, Emma Osborne of the Northern Ireland Human Rights Commission (NIHRC) confirmed to me that although the Commission cannot give legal advice, it does share my concerns about the inquiry's focus on institutions rather than on the systemic gender- and status-based abuses experienced within them. The Commission further stated that 'equality does not mean that everyone should be treated the same, particularly in relation to remedying human rights abuses, but rather treating people based on the type of harm that they experienced in order to provide effective redress.' She confirmed that *Stec v. United Kingdom* (2006) is a good example of how differential treatment can be lawful where it pursues a legitimate and proportionate aim.

3. Legal Analysis

3.1 The ECHR Framework

Equality under the European Convention does not require identical treatment of all persons, but rather proportionate differentiation according to relevant differences in situation and harm. Two cases are particularly relevant: *Stec and Others v. United Kingdom* (2006) and *Thlimmenos v. Greece* (2000).

3.1.1 *Stec and Others v. United Kingdom* (Applications nos. 65731/01 and 65900/01, Grand Chamber, 12 April 2006)

The Court held that once a State voluntarily establishes a system of social benefits or compensation, those benefits fall within the scope of 'possessions' protected by Article 1 of Protocol No. 1, and that Article 14 applies to their administration. Differential treatment is compatible with Article 14 if it pursues a legitimate aim and is proportionate to that aim. The Court recognised that positive or remedial measures designed to correct historical or structural

disadvantage are compatible with the Convention, affirming that substantive equality is the true standard.

[3.1.2 Thlimmenos v. Greece \(Application no. 34369/97, 6 April 2000\)](#)

Here, the Court found discrimination where the State failed to treat differently persons whose situations were significantly different. It held that equality may require differentiation, not uniformity. Taken together, these judgments establish that a State may — and sometimes must — treat groups differently to remedy past injustices or structural disadvantage.

[3.2 Application to Northern Ireland](#)

A redress scheme limited to unmarried women and their children, whose confinement in workhouses arose from gender- and status-based discrimination, would clearly pursue a legitimate aim: remedying historic injustice and stigma. Such differentiation would be proportionate, narrowly tailored, and grounded in documented harm. The relevant distinction is not 'residence' but the discriminatory purpose and effect of confinement. Accordingly, the Northern Ireland Assembly would act within its legislative competence under Section 6 of the Northern Ireland Act 1998 in enacting a targeted, harm-based redress scheme. Properly drafted, such a measure would not contravene Articles 14 and 1 of Protocol No. 1 but would instead realise the ECHR's commitment to substantive equality.

[4. Conclusion](#)

The ECHR jurisprudence confirms that redress measures targeted to specific groups who suffered distinct forms of discrimination are legally permissible and may be required to achieve equality in practice. The exclusion of workhouses on the basis of an overly literal 'residence' criterion misconceives both the nature of the harm and the scope of the State's equality obligations. A properly framed redress scheme focusing on gender- and status-based coercion would be lawful, proportionate, and Convention-compliant, fulfilling the UK's human-rights commitments rather than contravening them.

5. References

- *Stec and Others v. United Kingdom*, Applications nos. 65731/01 and 65900/01, Grand Chamber Judgment, 12 April 2006, Reports of Judgments and Decisions 2006-VI.
- *Thlimmenos v. Greece*, Application no. 34369/97, Judgment, 6 April 2000, Reports of Judgments and Decisions 2000-IV.
- Northern Ireland Act 1998, Section 6(2)(c), (d).
- Human Rights Act 1998, Section 6 and Schedule 1.
- European Convention on Human Rights, adopted 4 November 1950, entered into force 3 September 1953.