

European Network Against Racism (ENAR) Ireland



European
Network
Against
Racism
Ireland

Ireland

Submission to the United Nations
Universal Periodic Review

Twelfth Session of the Working Group on the UPR
Human Rights Council
6th October 2011

EXECUTIVE SUMMARY

Racism persists in Irish society. Racism is on the increase across Europe and Ireland is not an exception. This fact is highlighted by recent research by both European Network Against Racism (ENAR) and the EU Fundamental Rights Agency (FRA). FRA research (2009) identified Ireland as among the worst six countries in relation to the level of discrimination, with 73% of those surveyed from Sub-Saharan Africa stating that they had experienced racism in Ireland. 25% of those from Central and Eastern Europe also reported experiencing racism¹. A Teachers' Union of Ireland survey in 2010 showed that 46% of teachers reported that a racist incident had occurred in their school compared with 25% for the same period in 2009.

Ireland which had a booming economy and growing diversity at the time of the last CERD Hearing, is now in the midst of recession. At this time, we are at a critical juncture and the anti-racism agenda requires strong political leadership and support by State institutions. Racism is on the increase in Ireland, reflected both in terms of number and severity of racist incidents². There is also apparent increased tolerance of racism. At a time when the risk factors for racism are clear including recession and the rise of extremism across Europe, Ireland finds that its capacity to address racism has seriously diminished since the December 2008 and subsequent budget cuts saw the closure of the National Consultative Committee on Racism and Interculturalism (NCCRI) and cuts to the Irish Human Rights Commission and Equality Authority budgets. There have been similar cuts to and restructuring of supports to

¹ See EU Fundamental Rights Agency, EU-MIDIS.

² Since the closure of NCCRI in 2008 it has been difficult to get exact figures and we rely somewhat on anecdotal evidence and limited surveys. We are piloting a monitoring system to address this gap.

NGOs which play a vital role in combating racism and supporting ethnic minorities. Ireland elected a new Government on 25 February 2011.

Priority issues are institutional barriers including:

- Diminished capacity to address racism following cuts to equality and human rights infrastructure;
- Lack of recognition of Traveller ethnicity;
- Limitations in legislation to address hate crime;
- Limited supports for independent monitoring of racist incidents;
- Dispersal and direct provision³,
- Habitual Residency Condition⁴,
- Limited rights to change employer for migrant workers,
- Issues created for migrant women experiencing domestic abuse due to limited access to independent residency and social security – and for Traveller women due to lack of provision of appropriate services,
- Under-regulation of sectors where migrants are over-represented, e.g. domestic work, agri-food sector.

Priority recommendations include:

- Reverse the disproportionate cuts to the equality and human rights infrastructure and ensure capacity to address racism.
- Recognise the ethnic identity of Travellers.
- On hate crime, the Government should conclude review of Incitement to Hatred, pass legislation to declare illegal and prohibit racist organisations, ensure racist motivation be consistently taken into account as an aggravating factor in sentencing practice for criminal offences.
- Take appropriate steps to encourage the reporting of racist incidents and crimes, through supporting NGO independent mechanism.
- Abolish Dispersal and Direct Provision.
- Introduce the right to work for asylum seekers.
- Ensure labour mobility for migrant workers.
- Ireland should improve the Immigration, Residence and Protection Bill including to provide for the right of migrants to judicial review against administrative actions and to ensure the right of migrant women in abusive relationships to legal protection by providing them with separate residence permits⁵.
- Ireland should adopt legislation that prohibits any form of ethnic profiling

This Submission is made by ENAR Ireland, a national network of organisations⁶ working collectively to address racism. We are the Irish Coordination of European Network Against Racism, a network of over 700 organisations across the European Union.

³ A policy whereby asylum seekers are dispersed across the country and accommodated in accommodation centres where food and shelter are provided directly.

⁴ A condition that requires that people are habitually resident in the State before they can access certain benefits or services.

⁵ As recommended by CERD in the Concluding Observations of March 2011.

⁶ See appendix for list of members.

I. BACKGROUND AND FRAMEWORK

European Network Against Racism (ENAR) Ireland is a national network of organisations working collectively to highlight and address racism. ENAR Ireland is the Irish National Coordination, an EU wide network of over 700 organisations. The Network celebrated its tenth anniversary in 2010.

Key ENAR Ireland priorities at the national level currently are keeping anti-racism on the agenda through ensuring a sustainable network of anti-racist and concerned NGOs; developing and implementing a standard framework for the monitoring of racist incidents; advocating for a strong legislative framework on racist violence and crime. We also participate in a number of EU and international fora and conduct research on an annual basis to feed into annual Shadow Reports on Racism in Europe for the European Network Against Racism.

Since the abolition of the National Consultative Committee on Racism and Interculturalism (NCCRI) in December 2008, the relevance of ENAR Ireland in the Irish context has grown. We have worked to minimise the impact of the closure of the organisation, an organisation which heretofore, had acted as a central point and facilitated NGOs and statutory organisations to come together. We have endeavoured to create the space for collective debate and action by NGOs and our growing membership has worked tirelessly to keep anti-racism on the political agenda.

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

The Irish Constitution which was adopted in the 1930's, provides some recognition of human rights fails to give full protection of human rights as reflected in subsequent UN frameworks. The European Convention on Human Rights (ECHR) was given further effect in Irish law through the European Convention on Human Rights Act 2003 but this is relatively weak. Ireland has an Irish Human Rights Commission and an Equality Authority. However, human rights and equality infrastructure have been disproportionately affected by budget cuts since October 2008. While Ireland is party to core human rights treaties, few elements of international human rights instruments have been incorporated in Irish law which limits their enforcement in the Irish courts. The National Action Plan Against Racism, arising out of the World Conference against Racism in Durban in 2000 was implemented from 2005-2008 and ceased at the end of 2008. The period of implementation was too short and no follow up mechanism has been put in place.

B. Implementation of International Human Rights Obligations

Racism persists in Irish society. Racism is on the increase across Europe and Ireland is not an exception. This fact is highlighted by recent research by both European Network Against Racism (ENAR) and the EU Fundamental Rights Agency (FRA). FRA research (2009) identified Ireland as among the worst six countries in relation to the level of discrimination, with 73% of those surveyed from Sub-Saharan Africa stating that they had experienced racism in

Ireland. 25% of those from Central and Eastern Europe also reported experiencing racism⁷. A Teachers' Union of Ireland survey in 2010 showed that 46% of teachers reported that a racist incident had occurred in their school compared with 25% for the same period in 2009.

1. Equality and non-discrimination

Racism is on the increase in Ireland, both in terms of the extent of the problem and the severity of racist issues. At the same time, racism has fallen off the political agenda. The State's capacity to respond has been diminished severely through cuts to the equality and human rights infrastructure as well as programmes to support civil society organisation. There is increased tolerance for racism and worryingly, also evidence of an acceptance of racism as simply a part of everyday life both by majority and minority communities.

Issues include:

- Seriously diminished capacity (policy and infrastructure) to respond to and prevent racism since 2008 and subsequent ***budget cuts which have been disproportionate***
- Need for real action to be taken that reflects the **gendered nature** of racism and other intersecting forms of discrimination (art. 5).

Recommendations:

- Restore budgets to address the disproportionate cuts to the Equality Authority and Irish Human Rights Commission and consult relevant stakeholders including NGOs on how to support anti-racism work including the work previously carried out by NCCRI.
- Expand the scope of the Equality legislation to include all functions of Government, including controlling duties carried out by members of the police force.
- Ensure a gender dimension is reflected in all measures to address racism and achieve equality and social inclusion.
- Ensure that people who experience racism including Travellers, asylum seekers and undocumented migrants are included in all anti-racism and social inclusion measures.

2. Right to life, liberty, and security of the person

Issues include:

- Continuing limitations in the legislation with regard to recognising the ***racist motive*** as an aggravated circumstance, resulting in longer sentences.
- Ineffectiveness of ***Incitement to Hatred*** legislation.
- In the area of **policing**, there is evidence of **ethnic profiling** and little evidence of serious measures to protect people against ethnic or racial profiling. There is some anti-racism work carried out within the police force (An Garda Síochána) but the relevant Office, the Garda Racial and Intercultural Office, is under-resourced. Furthermore, certain controlling duties and other functions carried out by the police, are not covered by the ***Equality Legislation***.
- The cessation of the ***Independent Racist Incident Monitoring*** System with the closure of NCCRI. NGOs have responded to this need and ENAR Ireland is actively supporting the independent monitoring of racist incidents through a collective

⁷ See EU Fundamental Rights Agency, EU-MIDIS.

approach, as a pilot project. However, the cessation of the NCCRI system has resulted in a complete data gap for 2009 and limited data for 2010. For success and real outcomes, independent monitoring needs to be recognised and supported by Government.

Recommendations:

- Bring in the necessary measures to ensure racist motivation is treated as an aggravating circumstance and in practice, results in increased sentencing.
- Strengthen the Incitement to Hatred legislation, including with regard to racism on the internet.
- Introduce legislation to protect ethnic minorities against ethnic profiling by police (including immigration officers), with clear appeal process and redress options.
- Carry out impact assessments on all relevant legislation and procedures to ensure it does not encourage racism or lead to racial/ethnic profiling.
- Acknowledge the need for and support of independent monitoring of racist incidents, and the role of NGOs this endeavour.

3. Administration of justice and the rule of law

Recommendations:

- Ratify the International Convention on Migrant Workers and their Families.
- Withdraw the declaration made on Article 4 of the CERD.
- Provide training for the judiciary in the area of equality, human rights and anti-racism.

4. Freedom of religion or belief, association, and peaceful assembly and the right to participate in public and political life

Issues include:

- Lack of ethnic minority representation among politicians and decision making bodies
- Voting rights in national elections are linked to citizenship. Residency does not confer voting rights outside of local elections and there are significant delays and barriers to people to access citizenship.

Recommendations:

- Support measures to increase the political participation of ethnic minorities including Travellers (with a focus also on political participation of women from ethnic minorities).
- Ensure access to multi denominational and non denominational education.

5. Right to work and to just and favourable conditions of work

Issues include:

- Ethnic minorities are over represented in poorly paid, under regulated work; they are often under-employed; issues regarding recognition of overseas qualifications exacerbate the problem of under-employment; there is discrimination in accessing employment; asylum seekers do not have the right to work.

Recommendations:

- Ensure the right of migrant workers to change employer through serious reform of the work permit system.
- Allow asylum seekers the right to work.

6. Right to social security and to an adequate standard of living

Issues include:

- Lack of culturally appropriate services in e.g. accommodation, health and education.
- Claiming social welfare can impact negatively on applications for citizenship.
- Institutional barriers such as habitual residency condition.

Recommendation:

- Abolish the Habitual Residence Condition which denies people who are not habitually resident for two years to access certain benefits including child benefit. In the interim, ensure that the years that people have spent in the country in the asylum system are included in the two year criteria.
- Accessing social welfare should not inhibit people's access to Irish citizenship.

7. Right to education and to participate in the cultural life of the community

- The right to **education** is limited for many groups including asylum seekers, undocumented workers.
- Some groups do not enjoy their right to access and full participation in education as a result of continuing direct and indirect discrimination e.g. Travellers and religious minorities.
- The denominational nature of much of the Irish formal education provision persists.
- Budget cuts have had a disproportionate affect on ethnic minorities, including through cuts to English language supports in formal education.

Recommendations

- Ensure non denominational education provision.
- Resource the Intercultural Education strategy more substantially.

8. Minorities and indigenous peoples

Issues include:

- The **ethnic identity** of Travellers is still not recognised by the Irish Government, despite recommendations for international bodies such as CERD and HRC.
- **Health** is a significant concern. The all island Traveller Health Study reveals prevailing poor health status for Traveller including shorter life expectancy and higher infant mortality rates.

Recommendations:

- Recognise Traveller Ethnicity

8. Migrants, refugees, and asylum-seekers

Issues include:

- **Health** is a significant concern for asylum seekers. Mental health issues are prominent in the asylum seeking population, some of which are arguably as a direct result of the implementation of the dispersal and direct provision policy.
- **Women** seeking asylum are susceptible to sexual harassment; the living conditions exacerbate the situation. There is limited access to appropriate services for Traveller women experiencing violence. Female migrant workers are disproportionately represented in the less regulated sectors, e.g. in the private home and agri-food sector and therefore more open to exploitation.
- **Children** from minority ethnic backgrounds, many of whom are Irish citizens and born in Ireland, have particular needs that need to be accommodated. Vulnerable groups of children experience serious need and there is evidence of malnutrition in children seeking asylum and living in accommodation centres.

- Insufficient **protection for vulnerable groups** including asylum seekers, undocumented persons and people who have been trafficked.

Recommendations -

- Introduce fair and transparent immigration legislation. The last Immigration, Residency and Protection Bill 2010 was seriously flawed and lapsed with the fall of the last Government in Feb 2011.
- Summary Deportation must not be allowed by any provision in immigration legislation. .
- End policy of Dispersal and Direct Provision (accommodation for asylum seekers). In the interim, introduce an Independent Complaints Mechanism.
- Put in place fair and humane standards for the treatment of asylum seekers including with regard to time taken to recognise refugee status; accommodation arrangements and payments (dispersal and direct provision); detention of ‘failed asylum seekers’; right to work and education.
- Ensure the right of migrant workers to change employer.
- The right to health is a basic right and access to healthcare cannot be limited on the basis of identity or legal status, directly or indirectly.

10. Human rights and counter-terrorism

Recommendations:

- As recognised in the HRC’s concluding comments (CCPR), the government needs to provide a definition of terrorism and collect and provide data which can monitor the impact if any of counter terrorism legislation on human rights and the proportionality of the effect of ethnic minorities.
- Due consideration should also be given to the HRC concern regarding the State’s reliance on official assurances regarding the risk of torture or ill-treatment of those on so called rendition flights (para 11).

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

Significant strides were made in Ireland to protect human rights and move towards equality since the last 1990’s. However, the past two years (since recession) have seen equally significant steps backwards where it appears equality and human rights may be perceived as luxuries we cannot afford.

The approach to the recession threatens to reverse the achievements of previous years to protect human rights.

It is with regret and deep concern that ENAR Ireland must report that many of the positive aspects identified by for example, the CERD in their Concluding Observations in 2006 or by the HRC, have not developed, have been significantly cut or have disappeared. For example, the National Action Plan Against Racism ceased at the end of 2008. The Equality Authority and Irish Human Rights Commission have experienced serious budget gets and the National Consultative Committee on Racism and Interculturalism has been closed. We continue to have equality legislation though it has not been amended to address exemptions and other limitations in scope, e.g. around controlling duties. There is concern that the cuts to the Equality Authority put the institution under considerable strain in their efforts to ensure

access to the legislation and institutions by those experiencing racism as well as in carrying out their proactive work to prevent racism.

The inclusion of a question on ethnicity remains in the Census; it was an important first step but it is time to review the question itself to see how it might better represent the ethnic diversity of the population. We also await the time when the Traveller identity question in the Census will be recognised as a question on ethnicity (should Travellers finally have their ethnic identity recognised by the Irish Government). There is ongoing need for review and improvement of data collection so we can monitor racism and progress. There is room for improvement on awareness raising on the competence of the Committee to receive individual complaints. There is much scope for improved implementation of the National Traveller Accommodation Strategy, a situation that continues to be deplorable in many areas. While the Traveller Health Study is welcomed, the findings of the study reveal shocking information on the state of Traveller health.

A number of important initiatives have been developed by Government, arising largely out of the National Action Plan Against Racism 2005-2008. These include the Intercultural Health Strategy. The Intercultural Education Strategy was launched in 2010; however, it is acknowledged that there are few resources available and this hinders the opportunities for effective or comprehensive implementation. Under the National Action Plan, some local authorities developed local anti-racism and diversity plans (ARDs) or integration plans. However, the development and implementation of Plans across the country has been somewhat inconsistent and ethnic minority inclusion continues to depend on where a person lives. Officials may argue that aspects of the National Action Plan continue, as a result of such strategies. However, only a few of the objectives of the Plan were met. The timeframe of three years was too short. Furthermore, the cessation of the Plan has meant the loss of a joint-up thinking and holistic approach to racism.

Of the 16 concerns and recommendations made by the CERD Committee in their Concluding Observations (para 9 to 15) for example, our assessment is that the majority of these concerns continue to be valid (see issues above). While there was some indication of imminent progress in 2006-2008,, we have witnessed a significant step back in the past two years and some important work progressed or explored (e.g. proposed immigration legislation) has since stood still.

On the ground, there is a real sense of a perception by Government and other stakeholders that equality and anti-racism are seen as a luxury in a time of economic recession. We have seen disproportionate cuts to equality sector institutions and organisations at a time when the challenges of inequality are coming more to the fore. We argue that not only is anti-racism and equality key to economic recovery but ignoring racism and inequality at this time has the potential to create social conflict and harm from which it will take decades to recover.

Ireland which had a booming economy from the late 1990's up until the late 2000's. However, it is now in the midst of recession. At this time, we are at a critical juncture and the anti-racism agenda requires strong political leadership and support by State institutions. Racism is on the increase in Ireland, reflected both in terms of number and severity of racist

incidents⁸. There is also apparent increased tolerance of racism. At a time when the risk factors for racism are clear including recession and the rise of extremism across Europe, Ireland finds that its capacity to address racism has seriously diminished since the December 2008 and subsequent budget cuts saw the closure of the National Consultative Committee on Racism and Interculturalism (NCCRI) and cuts to the Irish Human Rights Commission and Equality Authority budgets. There have been similar cuts to and restructuring of supports to NGOs which play a vital role in combating racism and supporting ethnic minorities.

IV. KEY NATIONAL PRIORITIES

The new Government⁹ must:

- Follow up to the National Action Plan Against Racism which ceased in 2008.
- Commitment to equality and human rights infrastructure including participation of civil society organisations (which have been affected by disproportionate budget cuts)
- Ensure full implementation of Concluding Observations of CERD from March 2011 (and from previous Concluding Observations) as well as recommendations from e.g. CEDAW and HRC.

⁸ Since the closure of NCCRI in 2008 it has been difficult to get exact figures and we rely somewhat on anecdotal evidence and limited surveys. We are piloting a monitoring system to address this gap.

⁹ Ireland elected a new Government on 25th February 2011.

APPENDICES**Appendix i: ENAR Ireland membership (including member networks)**

Member organisation		County
1	African Cultural Project	Dublin 1
2	Akidwa (African and Migrant Women's Network)	Dublin 1
3	Anti Racism Network (ARN)	Dublin
4	Ballyfermot Traveller Action Project	Dublin 10-
5	Cairde	Dublin 1
6	Comhlamh	Dublin 2
7	Community Workers Coop (Network)	Galway
8	Cultúr	Meath
9	Donegal Failte Project	Donegal
10	Doras Luimni	Limerick
11	European Anti Poverty Network (EAPN) Ireland	Dublin 1
12	Galway Refugee Support Centre	Galway
13	Galway Traveller Movement	Galway
14	Immigrant Council of Ireland (ICI)	Dublin 2
15	Integration Centre	Dublin 8
16	Irish Refugee Council	Dublin 1
17	Irish Traveller Movement (Network)	Dublin 2
18	Lir Anti Racism Training Project	Dublin 8
19	Longford Women's Link (LWL)	Longford
20	Louth Minority Ethnic Consortium	Louth
21	Mayo Intercultural Action (MIA)	Mayo
22	Migrant Rights Centre Ireland (MRCI)	Dublin 1

23	NASC Immigrant Centre	Cork
24	National Traveller Women's Forum	Galway
25	National Women's Council Ireland	Dublin 1
26	New Communities Partnership (Network)	Dublin, Limerick, Cork, Waterford
27	Pavee Point (Traveller Centre)	Dublin 1
28	Show Racism the Red Card (SRRC)	Dublin 7
29	Sport Against Racism Ireland	Dublin 1
30	St. Vincentian Refugee Centre	Dublin 7

Appendix ii: Further reading/references

The Submission is informed by the ENAR Ireland 'State of the Nation' report 2009-2010 and previous reports. Reports are conducted annually (since 2003) and all are available online on www.enarireland.org or www.enar-eu.org

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