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ar Chiníochas agus Idirchultúrachas**

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GREEN PAPER

Equality and non-discrimination in an enlarged European Union

**Response by the National Consultative Committee on Racism and
Interculturalism (NCCRI)**

Ireland, August 2004

I. Introduction

The National Consultative Committee on Racism and Interculturalism (NCCRI) was established in 1998. The role of the NCCRI is to act as an expert body to develop an integrated and strategic approach to racism and its prevention and to foster interculturalism within Ireland. It also seeks to inform policy development and to build consensus through dialogue in relation to the issues of racism and interculturalism. It is core funded by the Department of Justice, Equality and Law Reform.

In association with the Department of Justice, Equality and Law Reform, the Department of Foreign Affairs and the European Monitoring Centre on Racism and Xenophobia (EUMC), the NCCRI organised a conference during the Irish presidency of the European Union on 9 June 2004. The conference considered the theme of 'Combating Racism through Building a More Inclusive, Intercultural Europe'. Over 100 people participated, representing most of the 25 EU countries, with a broad mix of people from statutory and non-statutory backgrounds. The results of the conference are published in the sixth issue of 'Spectrum', the journal of the NCCRI, available at: www.nccri.com.

This response to the Green Paper on equality and non-discrimination in an enlarged European Union draws on the experience of the NCCRI in working with EU initiatives at national level, and the discussions which were held at its presidency conference in June 2004. Intended to complement the online Questionnaire submitted by the NCCRI the submission broadly follows the structure of that questionnaire:

- Meeting the challenge of enlargement
- Implementing non-discrimination in law and in practice
- Improving data collection, monitoring and analysis
- Making full use of EU funding
- Reinforcing cooperation with stakeholders
- Ensuring complementarity with other areas of EU policy

II. Meeting the challenge of enlargement

In an enlarged Europe racism and discrimination remain serious problems. Speaking on behalf of the European Union at the Sixtieth Session of the Commission on Human Rights the Irish Minister for Foreign Affairs, Brian Cowen, T. D. stated that:

Our own experience is far from perfect. The recent past, as well as the present, bears witness to our imperfections, not least in the worrying rise in racism, xenophobia, anti-Semitism and intolerance within the borders of the European Union. We are determined to combat these wherever they occur and to take the necessary measures to ensure that Europe remains a tolerant and inclusive society.

As the Green Paper points out enlargement will change the political and institutional context for policy-making on non-discrimination and equal treatment. Clear political leadership is required to secure further legislative action in this area. At the NCCRI presidency conference the Minister for Justice, Equality and Law Reform, Michael McDowell, T. D., pointed out that, 'the expansion of the Union and the removal of borders will increase the pace of change in European society and will add significantly to

its diversity'. This challenge must be met in a political and institutional context which recognises the challenges of racism and the need to build an intercultural society. The European Union Monitoring Centre on Racism and Xenophobia (EUMC) has a central role to play in the development of a policy agenda in the enlarged European Union which responds to these challenges.

Any future enlargement should be used as an incentive for all Member States to step up their efforts to address the challenges faced by minorities. This particularly relates to the Roma. For Ireland the question of the integration of Roma is a new one, however enlargement should not detract attention from existing problems, such as the ongoing vulnerability of the Traveller community. Speaking at the NCCRI presidency conference Anastasia Crickley, Chair of the NCCRI, stated that:

While much remains to be done, with old issues not always addressed as new challenges emerge, I am conscious that progress has been made towards responding to racism since the European Year against Racism in 1997.

III. Implementing non-discrimination in law and in practice

The remaining obstacles to the effective implementation of the European anti-discrimination legislation are multi-faceted and complex. All the factors listed in the online Questionnaire have relevance, while some may be more urgent in particular contexts than others. A key conclusion from the NCCRI's presidency conference was that the growth of political parties throughout the EU seeking to dismantle protections against discrimination is a key concern for the implementation of the European anti-discrimination framework.

Mandana Zarrehparvar of the Danish Centre for Human Rights referred to the scepticism of governments in realising the anti-discrimination policies they have committed themselves to at the European level. She identified a number of reasons for this scepticism including the perception by Member States of the infallibility of their democratic systems, the increasing xenophobia and anti-immigrant sentiment, and an over reliance that the concept of 'integration'. These are all challenges and perceptions which the European Union will need to strive to overcome in the coming years in order to unblock the effective implementation of the European anti-discrimination legislation.

This lack of political will was further highlighted by Barbara Nolan, Head of Unit for Anti-Discrimination and Relations with Civil Society at the European Commission: 'It is clear that in many Member States the fight against discrimination, particularly when it comes to ethnic and racial discrimination, has slipped down the policy agenda'.

The European Union needs to reinforce, but also move beyond a policy that is primarily based on ending discrimination, to move towards developing a framework that is concerned about building a more inclusive and intercultural European Union underpinned by fundamental human rights. In addition to considering the extension of the anti-discrimination grounds in the EU legislation, the European Commission should also look to expanding the mechanisms for promoting interculturalism. For example Robin Oakley in his summary of the discussions at the NCCRI conference concluded that it is important to 'use the law to introduce a positive duty on public authorities'. However Legislation

alone cannot overcome discrimination, thus the necessity of complimentary programmes and positive measures to challenge discrimination.

Of the additional grounds of discrimination listed in the Charter of Fundamental Rights, the inclusion of birth, membership of a national minority, and language, are particularly important in terms of the fight against racism and racial discrimination. However the discussion of the additional grounds of discrimination should not be limited to those identified in the Charter of Fundamental Rights. For example migrants are a target of discrimination; migrants and third country nationals are often excluded from the provision of anti-discrimination legislation.

IV. Improving data collection, monitoring and analysis

The challenge which continues to face the European Union is the compilation of statistics and data on societal composition in terms of race and ethnic origin. As Sophie de Jonckheer, Policy Manager at the European Network against Racism (ENAR) pointed out at the NCCRI conference, ‘at present, these are not collected in most Member States and without them it is hard to see how policy-making can be appropriately tailored’. The European Union must respond in a real and effective manner to the challenge of encouraging data collection systems that allow for the comparability and disaggregation of data.

Data collection on experiences of discrimination also has an important role to play in assessing the impact of the legislative framework, however given concerns of under reporting data collection mechanisms need to be augmented through complementary research strategies. At the NCCRI conference John Wrench, Head of Research and Analysis at the EUMC stated that: ‘There is evidence that only a fraction of people who feel discrimination in fact lodge a complaint... This underlines the importance of continuing research and data collection on discrimination’.

Without data, and complementary research and analysis it will not be possible to focus on outcomes for minority ethnic groups. The European Union, through the EUMC, should look to the development of appropriate indicators or ‘racial’ equality assessments; the experience of the United Kingdom in this regard was highlighted at the NCCRI conference.

V. Making full use of EU funding

Funding initiatives targeting anti-discrimination should focus on inclusion and participation of vulnerable groups, including minority ethnic communities. While all the funding priorities listed in the Questionnaire are very important, funding must be available for direct and targeted measures that strengthen supports for minority groups.

A number of European NGOs have pointed to the technical and administrative barriers in accessing EU funding. This is especially true of community organisations which need to be resourced to develop the necessary infrastructure to enable minority ethnic groups participate in a real way as equal partners.

During the workshop discussions at the NCCRI presidency conference, participants recommended that ‘dedicated and longer term funding should be made available to support NGOs representing minority groups to engage in decision making fora at all levels’. There was concern that the European Commission has tended to fund fewer and larger NGOs.

VI. Reinforcing cooperation with stakeholders

Tackling discrimination is a multifaceted and complex task, as prejudice and other forms of discrimination are reflected in all aspects of society it is very important that efforts to address discrimination include as many actors as possible, reflecting all levels of policy development including local, regional, national and European actors. In particular NGOs have an important role to play both in terms of addressing the needs of victims, and as well as in awareness raising initiatives. The EU should continue its efforts to involve to the greatest extent possible all types of NGOs. The roundtable on provision of services at the NCCRI conference concluded that ‘participation of minority ethnic groups is essential at all stages of planning and implementation of services including and particularly in decision making processes.’

VII. Ensuring complementarity with other areas of EU policy

There needs to be more consistency across all areas of EU policy in combating racism and building a more inclusive intercultural Europe, including policy related to social cohesion, anti poverty, immigration and asylum. A holistic approach to combating racism and promoting inclusion must include four key elements:

- **Mainstreaming**: Including an intercultural focus in the planning, implementation and review of all relevant areas of public policy.
- **Targeting**: Setting specific objectives to overcome the inequalities experienced by minority ethnic groups informed by an evidence based approach to policy making.
- **Benchmarking**: Ensuring development through measurement of progress towards targets. Benchmarking must be underpinned by effective statistical strategies to provide the necessary data to measure such progress.
- **Engagement**: Securing the participation of key stakeholders and drivers to support the implementation of anti racism and intercultural policy, including policy makers, specialised and expert bodies, the social partners and local communities, including NGO’s representing cultural and ethnic minorities.

Multiple forms of discrimination are prevalent for minority members of minority ethnic groups. Consequently it is important that the multiple forms of discrimination be recognized in all initiatives aimed at targeting discrimination, and that in particular efforts to tackle sex discrimination in the EU should be linked closely to other anti-discrimination initiatives.

VIII. Conclusions

While the NCCRI is primarily concerned with anti-racism and promoting interculturalism, it recognises the importance of joint efforts to combat discrimination in the context of a coherent and integrated approach. In the same way that mainstreaming equality considerations into all areas of public policy does not overcome the need for targeted initiatives, a common legal and policy approach to discrimination should not neglect the specific experiences of different forms of discrimination.

In promoting anti-racism and interculturalism in Ireland, the NCCRI proposes the adoption of an intercultural framework, which is structured as follows:

- **Protection:** Ensuring effective protection and redress against racism
- **Inclusion:** Promoting economic inclusion
- **Provision:** Ensuring public services make reasonable accommodation for diversity
- **Recognition:** Recognising, and raising awareness and understanding about cultural and ethnic diversity
- **Participation:** Ensuring full participation of minority ethnic groups in democratic processes and in civil society.

This framework is equally applicable to anti-discrimination in general, and reformulated could offer a broad context for the discussion on the future of EU anti-discrimination policies.

Drawing on the NCCRI's experiences of working on European initiatives at national level and the recent conference, this submission presents six broad conclusions:

- I** As the problem of racism remains significant one in an enlarged Europe, the European Commission must maintain its focus on racism, in a way which meets the new and emerging challenges, while continuing to fight the older battles.
- II** The record of implementation of the European anti-discrimination framework demonstrates that there remain obstacles to the effective implementation of the legislation; not least the changes in political sensibilities since the Article 13 directives were negotiated. In addition to obstacles to implementation the European Union must also address the weaknesses and gaps in the existing framework. This discussion should focus on the need to reinforce anti-discrimination measure while at the same time moving to promote an intercultural Europe.
- III** Data collection, monitoring and analysis are the core of evidence based policy making. Europe should continue to contribute to the development of comparative data on societal composition, as well as on the experiences of discrimination by minority ethnic groups. Complementary research and analysis must contribute to the measurement of outcomes and impact of anti-discrimination mechanisms.
- IV** EU funding is very important for NGOs working in the field of anti-racism and discrimination, particularly where national funding is limited. In its future funding strategies Europe should support those organisations which effectively secure the participation of minority ethnic groups in decision making processes.
- V** Funding structures which reinforce participation by minority ethnic groups are

essential in order to secure effective decision making. This can be achieved by reinforcing cooperation with organisations working with minority ethnic groups.

- VI** An intercultural approach should be an integral part of all relevant public policy making. By securing the effective participation of minority ethnic groups in decision making processes at all levels, responsive mainstreaming policies can be developed to progress in the fight against discrimination in the European Union.

As Anastasia Crickley, Chair of the NCCRI concluded at the presidency conference on 9 June 2004:

We do not believe either that addressing racism or being clear about what we are against is enough in itself. There is another urgent parallel struggle, not a new one, but one which more than ever needs debate, discourse and decisions, towards fashioning our inclusive intercultural Europe of the future.