

**An Coiste Comhairleach Náisiúnta  
ar Chiníochas agus Idirchultúrachas**

**National Consultative Committee  
on Racism and Interculturalism**  
20 Harcourt Street, Dublin 2.

☎: (+353 1) 4785777  
Fax: (+353 1) 4785778  
Email: [nccri@eircom.net](mailto:nccri@eircom.net)  
Website: [www.nccri.com](http://www.nccri.com)



# **National Consultative Committee on Racism and Interculturalism**

## **Submission to the National Economic and Social Forum (NESF)**

### **Creating a more Inclusive Labour Market**

**December 2004**

## **Introduction**

Interculturalism is essentially about interaction, understanding and respect. It is about ensuring that cultural diversity should be acknowledged and catered for. It is about inclusion for minority ethnic groups by design and planning, not as a default or add-on. It further acknowledges that people should have the freedom to keep alive, enhance and share their cultural heritage (Diverse Voices, 2003).

Integration, as identified in Irish policy means the ability to participate to the extent that a person needs and wishes in all of the major components of society, without having to relinquish his or her own cultural identity. Clearly creating a more inclusive labour market is a key element in the integration of minority ethnic groups, including the Traveller community into Irish society.

An intercultural workplace is one where the employer takes account of diversity and plans for the increased cultural and ethnic diversity that arises from the employment of migrant workers and all minority ethnic workers. The development of an intercultural workplace policy should be seen as something that is integral to meeting the wider goals of the organisation and not as an add-on or an afterthought.

Under *Sustaining Progress* preventing racism in the workplace is specified as a concern. Congress and IBEC committed themselves to working on an agreed code of practice against racism in the workplace and to build on the success of the anti-racism workplace week and on the material published to support those workplace activities by developing further anti-racism measures (Sustaining Progress 2003).

The National Consultative Committee on Racism and Interculturalism (NCCRI) welcomes the opportunity to contribute to the NESF project on 'Creating a more Inclusive Labour Market', and this submission is intended to highlight recommendations which will facilitate intercultural workplaces, which promote integration and the rights of minority ethnic groups. Consequently it will address a number of key priority areas including: asylum seekers and refugees; Traveller community participation in the labour market; problems facing migrant workers; undocumented workers; the important role of employers; and the significance of ethnic monitoring. This submission is not an exhaustive analysis of all the issues facing minority ethnic groups, however, it does highlight a number of priority areas which the NESF could consider exploring in more detail.

The NCCRI would be happy to make additional, and more specific, contributions to the development of the project on 'Creating a more Inclusive Labour Market'.

The NCCRI was established in 1998 as an independent expert body focusing on racism and interculturalism. Additional information on the NCCRI is available on our website: [www.nccri.ie](http://www.nccri.ie).

## Context

Ireland has undoubtedly moved from being a country of emigration to one of inwards migration however, there has always been cultural diversity in Ireland, despite the widely believed myth that Ireland has been and still is a homogeneous and mono-cultural society or the defining of diversity solely along religious grounds (Protestant and Roman Catholic). In addition to the Traveller community there is a long established Jewish community and growing Islamic, Asian and Chinese communities in Ireland. However, there has been a significant broadening of cultural diversity in recent years, both in terms of numbers of people and national or ethnic origin.

### *Minority Ethnic Groups in Ireland*

There are now approximately 160 different nationalities living in Ireland.<sup>1</sup> According to the 2002 census there were 224,261 non-Irish people usually resident in Ireland; 133,436 of which are EU nationals; 23,105 are nationals of other European countries; 20,981 are African; 21,779 are Asian; and of the remainder the vast majority are from North America and Australia. 2,340 people indicated they were of multiple nationalities, while in 48,412 cases nationality was not stated. The 2002 Census indicates that non-nationals make up 5.8 percent of the population, of which almost half were UK nationals (2.7 percent).

The 2002 Census indicates that there are 23,681 Irish Travellers, representing approximately 0.65 percent of the population. The majority of the Traveller community identified themselves as Roman Catholic in the 2002 census (21,549).

There were 7,483 asylum applications in Ireland in 2003, compared with 11,598 in 2002. This decrease exceeds the 16 percent decrease worldwide noted by UNHCR. The most common countries of origin of asylum seekers in 2003 were: Nigeria (39 percent), Romania (10 percent), Moldova (3 percent), DR Congo (3 percent), and the Czech Republic (2.5 percent).

**Table 1: Total work permits issued by year and by category: 1999-2003. Source: Department of Enterprise, Trade and Employment, available at: [www.entemp.ie](http://www.entemp.ie)**

Year	New Permits	Renewals	Total
1999	4,328	1,653	6,250
2000	15,434	2,271	18,006
2001	29,594	6,485	36,436
2002	23,326	16,562	40,321
2003	21,956	25,039	47,551

In the context of Ireland's growing economy the number of migrant workers has increased significantly in recent years (Table 1). Despite recent concern regarding economic growth the numbers of migrant workers has continued to increase. In 2003 21,956 new work permits were issued, and 25,039 renewed, to nationals from 140

<sup>1</sup> Unfortunately in the 2002 Census the ethnicity question was limited to the Traveller community, consequently we do not have a real sense of ethnic diversity in Ireland and are reliant on data relating to nationality.

different countries. The top ten countries from which the new work permits originated were Poland, Lithuania, Latvia, Ukraine, Philippines, South Africa, Romania, China, Brazil and Australia. The vast majority of work permits are for the service industry, catering, agriculture and fisheries and the medical and nursing sectors.

### *Racism*

Any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.<sup>2</sup>

Racism is a specific form of discrimination and exclusion based on the false belief that some 'races'<sup>3</sup> are inherently superior to others because of different skin colour, nationality,<sup>4</sup> ethnic or cultural background. Racism deprives people of their basic human rights, dignity and respect. There are different forms of racism in Ireland including the racism experienced by:

- Travellers on the basis of their distinct ethnic identity and nomadic tradition
- Migrant workers, refugees and asylum seekers
- Minority ethnic groups, including black people on the basis of their skin colour and ethnic and/or national identity, regardless of their legal status.

It is also important to emphasise the connection between racism and other forms of discrimination including gender, disability and sexual orientation.

Racism can be a direct or an indirect form of discrimination and can occur at an individual, institutional and cultural level. Racism as a direct form of discrimination is about unequal treatment. It occurs when a person is treated less favourably than another, in similar circumstances, because of his or her 'race', ethnicity, national origins, nationality or colour. Racial abuse constitutes a form of direct racism but it can also be reflected in less immediately obvious ways, including recruitment, promotion and retention in the workplace. Racism as an indirect form of discrimination is about practices or policies, which may seem fair at first sight, but which in effect, either intentionally or more often unintentionally results in discrimination against some minority ethnic group or groups.

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<sup>2</sup> Article One of the UN International Convention on the Elimination of all Forms of Racial Discrimination (CERD).

<sup>3</sup> The term 'race' has been used in the past in an attempt to rank people according to physical and biological criteria. Nowadays, 'race' is often written in inverted commas to underline the difficulty in defining that term.

<sup>4</sup> While international and EU standards on racism tend to include discrimination based on national origin and not nationality, the Irish legislation includes reference to nationality *and* national origin. Under the Employment Equality Act 1998 and the Equal Status Act 2000 the 'race ground' is defined as discrimination on the basis of different race, colour, nationality or ethnic or national origins.

*Experiences of discrimination in the Irish labour market*

During 2003 and 2004 there has been a growth in recorded discrimination cases in employment on the race ground particularly by migrant workers, while numbers of cases of discrimination on the ground of membership of the Traveller community are low, this is likely to be due to the under representation of Travellers in the mainstream labour market.

According to the Equality Tribunal's *Annual Report 2003* among the employment cases there were 85 race discrimination cases heard in 2003, compared to 43 in 2002, a jump of 98 per cent. The number of cases, recorded by the Equality Tribunal under the Employment Equality Act 1998 on the ground of membership of the Traveller community, continued to be very low, representing just 1 per cent of their overall employment case load (see Table 2). The most common context was black persons of African nationalities citing both colour and nationality. The subject matter of the cases included alleged harassment in employment, selection for employment or promotion, and equal pay.

**Table 2: Breakdown by ground of claim 2002-2003, individual claims made under the Employment Equality Act 1998 and the Equal Status Act 2000, Source: The Equality Tribunal**

Ground	Employment Equality		Equal Status		Total claims (race & TC)	
	2002	2003	2002	2003	2002	2003
Race	43	85	26	43	69	128
Traveller community	4	3	741	354	745	357
Total (all grounds)	300	361	989	717	1298	1078

The case files of the Equality Authority provide a further insight into the scale and nature of discrimination experienced in employment. Both the race and Traveller community grounds continued to be very significant in the case work activity of the Equality Authority during 2003. For the first time the ground of race was the largest category in the employment area, representing 30 per cent of all case files. The growth in the number of files from migrant workers was significant, with working conditions and dismissal being the two largest categories of complaint. The files revealed breaches of employment protection legislation including excessive working hours, no payment for overtime, illegal deduction from pay, lack of holiday pay, harassment and dismissal (Equality Authority 2004). The report particularly highlights discrimination against migrant workers who work in private households.

According to data released by the Central Statistics Office from the National Census in 2002 the labour force participation rate for male Travellers (72%) slightly exceeded that for total males (70%) while the rate for female Travellers (38%) was considerably below that for females in general (47%). Unemployment among male Travellers measured 73 per cent according to the self-assessed principal economic status question on the census form. The national measure of unemployment for males on a comparable basis was 9.4 per cent according to the 2002 census results. Corresponding rates for females were 63 per cent for female Travellers and 8 per cent for the female population overall.

### *National Action Plan against Racism*

One of the key priorities of the forthcoming National Action Plan against Racism will be to ensure economic inclusion and equality, including a focus on poverty, employment and the workplace (Diverse Voices, 2003). The National Action Plan against Racism is due to be published by the end of 2004.

#### **1. Asylum seekers and refugees**

The majority of asylum seekers in Ireland do not have the right to work. A number of organisations have expressed concern at the impact of the system of direct provision and dispersal since its introduction. The current system does not account for the fact that the integration process begins as soon as an asylum seeker arrives in Ireland, and not when they receive refugee status. Reports produced by NGOs and social science researchers have highlighted that one of the outcomes of the direct provision scheme, combined with the lack of access to employment is the creation of enforced dependency on the State and the effective denial of the opportunity to earn an adequate income. The consensus between many NGOs is that asylum seekers should have the right to seek work if their claim for asylum has not been processed within the Government target of six months.

Evidence has emerged that, given the nature of the asylum process, very often refugees will need assistance in accessing the labour market. A study of the Vietnamese and Bosnian refugee community (who came to Ireland as Programme Refugees) in 1999 concluded that the unemployment levels among both communities was much greater than the general Irish population, with a greater proportion of Bosnians unemployed than Vietnamese. Many participants were pessimistic about their short-term chances of obtaining employment.

Particular groups within the refugee community in Ireland face additional barriers. For example a recent study concluded that:

within the refugee group women are much less likely to be in employment than men and when in employment are to be found in a narrow range of low-skill and low-pay jobs, often being employed in services, domestic service and in manufacturing (O'Connor, 2003)

#### Recommendations: Refugees and Asylum Seekers

- The asylum process should be recognised as part of the integration process, and as such the Government should extend the right to work to asylum seekers who have been waiting for a period of six months (the Government's target waiting period).
- Programmes of support that have proved successful in overcoming barriers to employment for refugees should be extended. For example good practice should be drawn from the Asylum Seekers Unit in FAS for the establishment of a more permanent mechanism.
- There needs to be a more coordinated and better resourced supports provided for English language classes and pre employment courses for both asylum seekers and refugees, and a more proactive approach to the recognition of qualifications.

## **2. Traveller participation in the labour market**

The Government Task Force on the Travelling Community (1995) identified many reasons for the low participation of Travellers in employment:

Traveller participation in the mainstream labour force is very low for many reasons, including low pay and poor work conditions, need for training, cultural factors, lack of acceptance by “settled” counterparts.

The report emphasised the need in the immediate term to develop strategies to increase development of Traveller community enterprise within the social economy and on the employment of Travellers in the public service, particularly within those areas providing services to or contact with the Traveller community. Despite these recommendations Travellers continue to experience low levels of participation in the labour market, and when they do find mainstream jobs some have experienced discrimination.

The Monitoring Committee’s First Report (2000) noted:

in terms of access to the mainstream labour market the participation of Travellers continues to be very low. The difficulties stem from the discrimination Travellers experience in school, in training courses, accessing and/or in the work environment; nomadism and the desire for self employment; a logical choice given the levels of discrimination; early school leaving; and a shortage of skills to enable access to the mainstream labour market, in particular employment and prospects.

The reality of discrimination within employment is highlighted by the findings of a recent study which suggests that some members of the Traveller community have felt it necessary to hide their identity in order to secure and retain employment. The same study also identified a worrying trend that some Traveller youth of school age were being offered exploitative casual jobs (Murphy 2002).

Within the literature there is an acknowledgement that Traveller women face double discrimination, on the basis of gender and membership of the Traveller community. For example the Monitoring Committee report pointed out that:

the requirement in the Community Employment Programme for participants to be signing on the Live Register has particular implications for many Traveller women who tend to marry at a younger age than settled women. This is of particular importance to Traveller women who wish to progress on from training programmes to employment opportunities face as they find themselves caught in the ‘income trap’.

### Recommendations: The Traveller community

- The recommendations on employment and enterprise supports for Travellers outlined in the Task Force Report on the Travelling People (1995) should be implemented.
- The government should pursue the commitment to establish a committee to progress the support of the Traveller economy.

- Legislation that militates against Travellers accessing employment including, recent amendments to the Housing (Traveller Accommodation Act, 2002) should be reviewed.

### **3. Migrant Workers**

In its second report on Ireland the European Commission on Racism and Intolerance (ECRI) acknowledged that ‘ECRI feels that more attention needs to be paid to non-citizen workers as members of Irish society rather than just as economic entities’ (2001).

Organisations working with migrant workers identify a range of issues which undermine the effective inclusion of these workers in Irish workplaces, these range from personal experiences of discrimination to systemic failures.

The single biggest issue facing migrant workers appears to be the nature of the work permit system. Concerns include:

- Over-dependence on the employer, who under the present scheme holds the work permit, rather than the employee
- The lack of permission for spouses of work permit holders to seek employment, unless they have secured a work permit in their own right
- Limited family reunification entitlements under the work permit scheme.

There have been a number of reports which suggest significant under reporting of racism against migrant workers due to fear of losing work permits.

There is a lack of effective safeguards to ensure that the rights of migrant workers are protected. The Labour Inspectorate does not record data on complaints it receives by nationality, ethnicity or work permit status. It is a matter of continuing concern that less than 20 labour inspectors are employed to enforce labour legislation throughout the country; in comparison, Ireland employs 350 environmental health officers.

According to the Migrant Rights Centre Ireland there is evidence that migrant workers are having difficulties in accessing the full range of services and support systems available to Irish nationals. In fact ‘anecdotal evidence suggests that migrant workers are not being considered for training and progression opportunities given the short nature and insecurity of their employment status’.

Women migrants working in the private home have been identified as particularly vulnerable in the Irish labour market. Case work activity of the Equality Authority and migrant NGOs has identified that these women can face unsatisfactory working conditions and experience abuse and discrimination. With the introduction of the Equality Act 2004 discriminatory practices in the working context of such employees is regulated, though recruitment is not covered by the equality legislation.

#### Recommendations: Migrant workers

- Work permits should be detached from the employers. The issue of the ownership of work permits has been identified as one of the most problematic for

migrant workers, and immediate steps should be taken to revise the current system.

- Temporary work permits should be used only in selected and limited situations. The NCCRI recognizes that there are circumstances under which it is necessary to issue short-term work permits, however the government should also issue permits of longer than one year.
- The number of Labour Inspectorate personnel should be at least doubled, a key part of its role should be specifically identified as the protection of minority ethnic groups, including migrant workers.
- Family reunification should be a legal right, and spouses and partners should have the right to work. Family reunification has been identified by a range of actors as a vital element to the effective integration of migrants into Irish society.
- Provide targeted information to migrant workers about their rights and entitlements (including domestic workers), and pre-departure information.
- Provide security measures for work permit holders who are made unemployed through no fault of their own, including considering removing the Habitual Residence Condition (HRC).
- Migrant workers on work permits should have access to education and training where relevant with FAS and other statutory bodies.
- The Irish Government should consider the positive implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

#### **4. Undocumented workers**

Very little is known about the situation of undocumented migrant workers in Ireland; there is no significant data on the position of undocumented workers, and evidence relies heavily on anecdotal sources, and the activities of An Garda Síochána which are reported in the media.

In June 2004 an official of the Department of Enterprise, Trade and Employment claimed that up to 50,000 migrants could be working illegally in Ireland. It is not clear how people come to work illegally in Ireland, though it is likely that some arrive illegally, while others have had work permits which have expired. The Immigrant Council of Ireland has estimated that the number of illegal migrants is closer to 15,000 (Corcoran 2004). Concern has been expressed by NGOs that illegal migrants are particularly unwilling to complain about their treatment in the labour market, due to concern about being reported to the authorities and losing their jobs, and the lack of facilities for regularising the situation of migrant workers.

A number of NGOs have also expressed their concern that where immigration law is breached the focus of prosecutions tends to be on the employees, while the employers are

rarely pursued, one possible explanation for this is the fact that prosecutions against the employer must be referred to the Director of Public Prosecutions.

#### Recommendations: Undocumented workers

- Consideration should be given to a system whereby undocumented workers could regularise their position, so that they can take themselves out of particularly dangerous situations.
- More effective action should be taken against employers who are in breach of immigration law.

### **7. Support for employers**

Employers have a central role to play in facilitating intercultural workplaces. They have responsibilities at all stages of the employment cycle to ensure that minority ethnic groups are not disadvantaged or excluded. The NCCRI recommends that employers adopt a ‘whole organisation’ approach. A whole organisation approach is a common sense approach to address racism and support inclusive, intercultural strategies within an organisation, with reference to equality policies and equality action plans.

The overall rationale for the development of a ‘whole organisation approach’ is to assist organisations to meet the opportunities and challenges associated with living and working in a multi-ethnic society, which include:

1. The ongoing need to combat racism, in all its forms
2. Ensuring equality of access to, participation in and outcomes from the services provided by an organisation
3. The need to attract, retain and provide a good working environment for all staff within an organisation, including those from minority ethnic groups
4. The legal requirements arising from the emergence of equality legislation and related employment legislation in Ireland and related good practice.

#### Recommendations: Support Employers

- Support should be provided through employers organizations to ensure that all employers are aware of the need to promote intercultural workplaces.
- Information and guidance should be provided to all employers who are considering employing migrant workers.
- The *Sustaining Progress* commitment by Congress and IBEC to promoting an agreed code of practice against racism in the workplace should be fulfilled.
- The success of anti-racism in the workplace week should be built upon and material published to support workplace activities (*Sustaining Progress* 2003).

### **6. Ethnic monitoring**

Another issue which has come to the fore in 2004 is the question of ethnic monitoring in recruitment procedures. In a media report in July 2004 a trade union registered its concern about the recruitment procedures of a leading retail outlet, which includes an ethnic monitoring form. The retailer responded that they use such procedures to monitor the effectiveness of its anti-discrimination policies. Another, similar incident was

reported to the NCCRI during 2004, whereby a member of a minority ethnic community queried the use of an ethnic monitoring form by a major retail outlet.

In the context of changing workplace profiles in Ireland strategies are needed to overcome racism and promote interculturalism. In order to achieve this an appropriate data and research base needs to be generated. This data should be compiled at national as well as employer level; the government should take advantage of existing data collection tools, while encouraging employers to monitor the ethnic profile of their workplace.

Recommendations: Ethnic Monitoring

- Ethnic monitoring should be promoted in all sectors of the labour market, initially the focus should be on those public sector organisations which already have relevant administrative records.
- When the pilot ethnicity question is adopted in the next National Census, employers should be encouraged to use this as a model for ethnic monitoring.