



**Submission to the European Commission against
Racism and Intolerance (ECRI)**

By

**National Consultative Committee on Racism and
Interculturalism (NCCRI)**

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Table of Contents

Introduction	3
A. International Legal Instruments	3
B. Constitutional provisions and other provisions.....	4
C. Criminal law provisions	4
D. Civil and Administrative Law Provisions	5
E. Specialised bodies and other institutions.....	5
F. Education and training / awareness raising	6
G. Reception and status of non-citizens.....	7
H. Access to public services.....	9
I. Employment	10
J. Vulnerable groups	12
K. Conduct of certain institutions	12
L. Monitoring of the Situation	13
M. Media.....	14
Section II: Issues of Particular Concern	15
N. Traveller Community.....	15
O. Awareness Raising	16

Introduction

The National Consultative Committee on Racism and Interculturalism (NCCRI) was established in 1998 as an independent expert body focusing on racism and interculturalism. The NCCRI is a partnership body which brings together government and non-government organizations, and is core funded by the Department of Justice, Equality and Law Reform.¹

The purpose of this submission is to provide an update to the European Commission against Racism and Intolerance (ECRI). ECRI have requested updates to their Second Report on Ireland from 2001 for their third round of reporting, taking place in 2006.² This submission is structured according to the layout of the second ECRI report on Ireland.

This submission finds that considerable activity has taken place since the last ECRI report in 2001 including key developments such as the launch of the National Action Plan Against Racism and the embedding of equality legislation; however serious deficiencies remain such as the lack of adequate legislation on racist crime.

A. International Legal Instruments

CERD

Ireland has submitted its first reports to the UN Committee for the Elimination of Racial Discrimination (CERD) and was reviewed by the Committee in March 2005. There was active NGO involvement in the process and NGOs submitted alternative and shadow reports.

EU Directives

In 2004, three EU Directives were transposed into Irish law. The Equality Act 2004 gave effect to components from the following Directives:

- Council Directive 2000/43/EC of 29 June 2000 Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin;
- Council Directive 2000/78/EC of 27 November 2000 Establishing a General Framework for Equal Treatment in Employment and Occupation; and
- Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 Amending Council Directive 76/207/EEC on the Implementation of the Principle of Equal Treatment for Men and Women as regards access to Employment, Vocational Training and Promotion, and Working Conditions.

The Equality Act 2004 is examined further under “Equality Legislation” below.

¹ Further information can be found at www.nccri.ie

² The report is available at: http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/Ireland/CBC2-Ireland.asp#TopOfPage

B. Constitutional provisions and other provisions

Citizenship Legislation

The previous ECRI report commented on the positive role that could be played by the fact that Irish citizenship is granted automatically to children born in Ireland. After the January 2003 Supreme Court judgment in the L&O case, the policy in place up to that time whereby the parents of Irish-born children were given a *de facto* right of residency was struck down.³ A referendum on constitutional change regarding citizenship took place in June 2004 and the law was changed so that only a child born in Ireland to an Irish citizen(s) would automatically become an Irish citizen.

The NCCRI Racist Incident Report for October 2001 – April 2002 reports verbal abuse of visibly pregnant women of African origin, including allegations that they were having children in order to secure Irish citizenship. It seems that media coverage of events and extreme commentary on topics such as this, create an environment that fosters racism.

C. Criminal law provisions

It is of concern that robust legislation criminalising racist crime is currently lacking in Ireland.

As outlined in the previous ECRI report, the Prohibition of Incitement to Hatred Act 1989 which should provide the legislative basis for combating racism has in fact proved quite ineffective and has been under review for several years. At a national preparatory conference for the 2001 World Conference Against Racism in Durban, the Minister for Justice, Equality and Law Reform announced the review of the Prohibition of Incitement to Hatred Act 1989, in response to concerns from national organisations:

“I am aware that there has been some criticism of the effectiveness of this Act and I understand that since it was enacted only one case involving an alleged breach of the Act was referred to the Director of Public Prosecutions. That case was subsequently dismissed in the District Court.”⁴

As an alternative in the absence of dedicated legislation, Section 6 of the Criminal Justice (Public Order) Act 1994 can be used to tackle racist crime; however, it is not currently widely used by Gardai in this context:

“6. (1) It shall be an offence for any person in a public place to use or engage in any threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or being reckless as to whether a breach of the peace may be occasioned.”
Criminal Justice (Public Order) Act 1994

In 2005 the National Action Plan Against Racism and the Department of Justice Equality and Law Reform commissioned research into racism and the criminal law. The primary focus of this research is in assessing the effectiveness of the current domestic legislation

³ Mac Éinrí, P. (2005) “Ireland”, in Niessen, J., Y. Schibel and C. Thompson (eds.), *Current Immigration Debates in Europe: A Publication of the European Migration Dialogue*, Migration Policy Group.

⁴ NCCRI (2001) “Prohibition of Incitement to Hatred Act 1989: A Review Submission by the National Consultative Committee on Racism and Interculturalism”, available at: www.nccri.ie/submissions/01AugLegislation.pdf, (26.04.2006).

to combat crime that is motivated by racism. In particular the research will consider whether the concepts of 'race' hate crimes and racially aggravated offences should be considered for adoption into Irish legislation.

D. Civil and Administrative Law Provisions

Equality Legislation

As described under "International Legal Instruments" above, the Equality Act 2004 introduced new definitions of indirect discrimination, harassment and victimisation; introduced a change to the burden of proof, so that essentially the respondent needs to disprove a claim; and introduced provisions for positive action. However, the transposition of the Directives was not a fully positive development in relation to racial equality and has been described as a minimalist response to the requirements of the Directives.⁵ For example, there are exemptions in the Employment Equality Act in relation to domestic workers and the discrimination on religious grounds regarding employment by public institutions in order to preserve the institution's "ethos", despite the fact that exemptions of this kind are likely to have a disproportionate adverse impact on minority ethnic groups.

The NCCRI is also concerned about exemptions in the equality legislation which appears to be allowing insurance companies to carry out HIV testing on minority ethnic groups.⁶

Other concerns about the effectiveness of the current equality legislation are described under 'employment' below. This lack of effectiveness for certain minority ethnic groups may be linked to a lack of suitable, targeted information and support in relation to seeking redress under equality legislation, the six-month period and formal process for lodging complaints.

The NCCRI recommends that existing equality legislation and associated processes and procedures be reviewed to assess access to and outcomes from the process for minority ethnic groups.

E. Specialised bodies and other institutions

An area of concern in relation to all bodies handling enquiries and complaints from the public, is the failure to adequately address language issues. Where someone requires the services of an interpreter or translator, it is common for family or friends to interpret and providing professional, qualified interpreters is not yet standard practice for service providers. This can happen in various settings and includes many areas of Government service provision. The Courts have been more proactive in responding to the need for interpreters.⁷ This issue is described further under "Access to public services" below.

⁵ Crowley, N. (2005) "An Ambition for Equality": Irish Academic Press, Dublin, p.100.

⁶ NCCRI (2006) "Potentially Discriminatory HIV Testing by Financial Institutions": Advocacy Paper., (in press).

⁷ Irish Independent, 7th June 2006, Courts Service will only use translators from one agency.
http://www.unison.ie/irish_independent/stories.php3?ca=9&si=1628381&issue_id=14173&eid=219813

The NCCRI

The NCCRI has continued in its role as a consultative independent expert body since the previous ECRI report. Its functions include policy, research, training, community development, information provision and logging racist incidents. It has a number of subgroups bringing together Government and NGOs, including a migration subgroup, and specialised groups are convened as required; for example a group was convened to work on the issue of the habitual residence condition (described in 'H. Access to public services' below). The NCCRI continues its role as an advisory body to Government and played a key role in the development of the National Action Plan Against Racism, launched by the Government in 2005.

Key NCCRI deliverables include:

- Publication of quarterly journal – Spectrum
- Co-ordination of Anti-racism / Intercultural week
- Distribution of monthly e-bulletins
- Delivery of a 'train-the-trainer' programme
- Hosting conferences, roundtables and other events
- Publishing reports and handbooks (for example: Seeking Advice and Redress Against Racism).

F. Education and training / awareness raising

There has been some activity in relation to intercultural education. For example, teachers currently receive 'interculturalism in the classroom' in-service training. Also, the following guidelines are available:

- Intercultural guidelines for Primary Schools were developed in by the National Council for Curriculum and Assessment and issued to all primary schools in 2005.
- The Irish National Teachers' Organisation developed Intercultural Guidelines for Schools: Valuing Difference, Combating Racism, Promoting Inclusiveness and Equality.
- Guidelines on Traveller education were developed by the Department of Education and Science, one set of guidelines for primary education and the other for post-primary education, published in 2002.⁸ These offer guidelines on school planning for the inclusion and retention of students from the Traveller community and address the need to develop curricula that recognise Traveller culture.
- Educate Together published the Learn Together Curriculum in 2004. This curriculum is built on the concepts of human rights and responsibilities and the appreciation of the wealth of human diversity, rather than defined in exclusive denominational terms. The essential aim of this project is to give children a basic sense of social, ethical and moral standards in the areas of respect, justice, integrity, truthfulness, trust and responsibility.

⁸ Guidelines available at:

www.education.ie/servlet/blobServlet/pp_traveller_education.pdf, (10.04.2006).

www.education.ie/servlet/blobServlet/padmin_traveller.pdf, (10.04.2006).

G. Reception and status of non-citizens

- **Immigration**

Immigration Legislation

The Immigration Act 2004 was introduced following a High Court decision which struck down as unconstitutional Section 2 of the Immigration Act 1999, which was thought to give statutory effect to the Aliens Orders as if they were Acts of the Oireachtas.⁹

The NCCRI had reservations about the Immigration Bill 2003, particularly provisions such as Section 3.3, whereby an immigration officer can detain and examine any person whom they reasonably believe to be a 'non-national'. The NCCRI has received reports of people from visible minorities being stopped, and in some cases harassed, by immigration police.¹⁰

In 2005 the Department of Justice, Equality and Law Reform published *Immigration and Residence in Ireland - Outline policy proposals for an Immigration and Residence Bill*. This was a discussion document containing proposals for legislation. The NCCRI's key conclusions and recommendations in relation to this discussion document focused on the importance of:

- Interculturalism as a Guiding Principle and Overall Objective
- Integration Strategy
- Resourcing of Migrant Led and Support Groups
- Statutory entitlement to family reunification
- Codification of Rights and Entitlements of Migrant Workers
- Immigration Ombudsman
- Regularisation scheme for Undocumented Workers
- Public Awareness Campaigns
- Legislation equality proofing
- Co-ordination, Co-operation and ongoing Consultation

Trafficking

There is a growing awareness of the existence of trafficking in Ireland, particularly in the sex industry and this received significant media attention in early 2006. A number of Garda operations have been put in place to tackle trafficking.¹¹ The Minister for Justice, Equality and Law Reform published a report on human trafficking in May 2006 from a working group comprising representatives from An Garda Siochana and the Department of Justice, Equality and Law Reform. It contains recommendations, focusing on immigration controls, law enforcement activity, protection of victims and the legislative response.¹²

- **Refugees and asylum seekers**

The numbers of people seeking asylum in Ireland have fallen since 2001. Information from the Office of the Refugee Applications Commissioner indicates that there were 23,091 asylum applications from late 2000 until the end of 2002; then 7,900 in 2003,

⁹ <http://www.taoiseach.gov.ie/index.asp?locID=243&docID=1770>

¹⁰ NCCRI (2004) Immigration Bill 2004, Submission to the Department of Justice, Equality and Law Reform. Available at: www.nccri.ie/submissions/04FebImmigration.pdf

¹¹ <http://debates.oireachtas.ie/DDebate.aspx?F=EUJ20051026.xml&Ex=All&Page=2>

¹² <http://www.justice.ie/80256E01003A02CF/vWeb/pcJUSQ6PLCRP-en>

4,766 in 2004, and 4,323 in 2005.¹³ Public debate in this area has diminished slightly in recent years and has perhaps been replaced to some extent by migrant labour issues.

- **Processing of asylum applications**

Deportations

One change since the last report is that deportations are now happening in Ireland. The Office of the Comptroller and Auditor-General reports the following (although these deportations do not refer only to failed asylum seekers):¹⁴

	1999	2000	2001	2002	2003	2004	2005
Deportation Orders Signed	80	797	1801	2195	2250	2723	967
People deported, left State or transferred to another jurisdiction	27	262	470	542	498	384	92

This report of the Comptroller and Auditor-General also outlined:

- Significant delays between the date of application for asylum and the interview with the Commissioner to determine eligibility to remain in the country. These delays ranged from 2 days to over 22 months, averaging over 9 months.
- Significant time taken to translate questionnaires, which applicants were required to complete for the Commissioner. These ranged from 6 days to almost 2 years and averaged around 8 months.

Detention

In 2005, a report was published by the Irish Refugee Council, the Irish Penal Reform Trust and the Immigrant Council of Ireland on immigration-related detention in Ireland. It noted that over the last few years, a range of statutory detention powers has been introduced to authorise the detention – in Garda Síochána stations and prisons – of:

- people refused permission to land,
- applicants for asylum, and
- people due to be deported.

In addition, people may be held in prison on remand (i.e. awaiting trial) for immigration-related reasons. The report stated that Irish law and practice do not adequately protect the rights of people refused permission to land and people detained pending deportation.¹⁵

- **Accommodation and provision for asylum seekers**

There have been concerns about the treatment of separated children seeking asylum. The Ombudsman for Children expressed concern to the UN Committee on the Rights of the Child that most children in this situation are accommodated in privately owned hostels, operated by staff without childcare training and did not meet the standards of residential centres where Irish children are placed.¹⁶

¹³ www.orac.ie/pdf/PDFStats/Monthly%20Statistics/2006/March_ORAC_Statistics.pdf

¹⁴ <http://www.audgen.gov.ie/documents/annualreports/2004/ReportChap5.pdf>

¹⁵ Kelly, M (2005), *Immigration-related detention in Ireland. A research report for the Irish Refugee Council Irish Penal Reform Trust and Immigrant Council of Ireland*. Executive Summary available at: www.irishrefugeecouncil.ie/press05/detention_summary.pdf.

¹⁶ Irish Times, 08/06/2006, *Logan Criticises Treatment of Asylum Children*.

The Reception and Integration Agency is also in the process of closing some of its accommodation centres given the reduction in the number of asylum seekers.

H. Access to public services

Research is currently underway into 'How public authorities provide services to minority ethnic groups' in Ireland, Scotland and Northern Ireland and an interim emerging findings discussion paper has been published.¹⁷ The discussion paper notes that a significant development in relation to some key public services in Ireland is the National Action Plan Against Racism, launched by the Government in January 2005, although this remains at the early stages of implementation. In comparison to the Scotland and Northern Ireland contexts, this research finds that there is a lack of mainstreaming of racial equality in public service provision in Ireland. There is no statutory duty to promote racial equality and to carry out associated equality impact assessments; although there is a voluntary system of equality impact assessment.

Another emerging issue is the lack of comprehensive, adequate and professional interpreting and translating services in service provision.

The NCCRI has commissioned research on this issue which will be available later in 2006; in the interim we would strongly suggest the following recommendations be developed through consultation with minority ethnic groups:

- *Professional interpreters and translators are always used when required (informal interpreting by family and friends should not continue and certainly using children to interpret should not occur);*
- *Information be provided in relevant languages and considering suitability of content and medium used;*
- *Complaints can be lodged in own language and translated by the relevant body;*
- *If the requirement that complaints be in writing continues, that complainants can be provided with assistance in writing a complaint.*

In relation to accessing social welfare, the Government introduced a restriction on benefits in May 2004 in response to unfounded fears that Ireland's social welfare system would become overburdened by people from the EU Accession States. NGOs expressed concern that this was resulted in hardship for vulnerable migrants.¹⁸ The Habitual Residence Condition was introduced as a late amendment to the Social Welfare (Miscellaneous Provisions) Act 2004 and meant that people accessing welfare had to prove that they were 'habitually resident' in Ireland or the UK.

- Access to Education

Whilst the previous ECRI report is correct in stating that language support is available for children whose first language is not English, it is important to qualify this. Pupils whose

¹⁷ Watt, P. and McGaughey, F. (2006) "How Public Authorities Provide Services to Minority Ethnic Groups", p.14, available at: www.nccri.ie.

¹⁸ See: Homeless Agency (2005) "Away from home and homeless: Quantification and profile of EU10 Nationals using homeless services and recommendations to address their needs", available at: <http://www.homelessagency.ie/downloads/publications/101.pdf>, and Migrant Rights Centre Ireland (2005) "Social Protection Denied: The Impact of the Habitual Residence Condition on Migrant Workers".

first language is not English are entitled to one English-as-an-additional-language (EAL) teacher for approximately every sixteen non-English speaking children. However, this is up to a maximum of two teachers, which poses problems for schools with high numbers of non-English speaking pupils. For example, one school recently informed the NCCRI that it has a total of 945 pupils, 320 of whom are described as ‘foreign national’.

The previous ECRI report mentions mother tongue teaching but notes that the dispersal system may make this difficult in practice. The Irish Association of Teachers in Special Education has indicated that the provision of mother tongue language classes “should be possible where there is a concentration of children with the same first language”, for example around Beaumont hospital in Dublin, where there is a large Filipino community due to the recruitment of Filipino nurses.¹⁹

Denominational Schools

This issue was raised by NGOs during Ireland’s first review by the UN CERD Committee. The Committee’s recommendation in its Concluding Observations was as follows:

“The Committee.... is concerned that existing laws and practice would favour Catholic pupils in the admission to Catholic schools in case of shortage of places... encourages the State party to promote the establishment of nondenominational or multi-denominational schools and to amend the existing legislative framework so that no discrimination may take place as far as the admission of pupils (of all religions) in schools is concerned.”²⁰

A number of multi-denominational schools are now being set up, including Educate Together which now has 39 schools.²¹ However, research has also found that enrolment policies relating to “feeder schools”, catchment areas and having siblings who attend the school have a disproportionate negative impact on Traveller children;²² it is likely that these policies could also have a disproportionate effect on recent migrant children.

I. Employment

The economic boom described in the previous report has continued in Ireland with even higher numbers of migrant workers making a valuable contribution to the Irish labour market. Of particular significance was Ireland’s decision to open access to its labour market to people from the EU Accession States in 2004,²³ which resulted in high numbers of migrant workers from the Accession States coming to Ireland

¹⁹ Irish Association of Teachers in Special Education (2001) “Education for a Pluralist Society: The Direction of Intercultural Education”, p. 7.

²⁰ CERD Committee (2005) “Concluding Observations by the Committee on the Elimination of Racial Discrimination: Ireland”, UN Doc: CERD/C/IRL/CO/2 10 March 2005, at 18.

²¹ The Educate Together organisation represents and co-ordinates Educate Together schools and associations throughout Ireland. It owes its origins in the movement to establish new multi-denominational primary schools, which emerged in the late 1970s and early 1980s. See: www.educatetogether.ie.

²² Kenny, M. & Shevlin, M. (2004) “Traveller Community” in Lodge, A. & Lynch, K. (eds.), *Diversity at School: Equality Authority*: Dublin, pp.92-101

²³ The only other countries to do so were Sweden and the UK

150,000 Personal Public Service Numbers (PPSN)²⁴ were issued to EU nationals in the period between May 2004 and December 2005 and Polish people have been the largest group to receive PPSNs. There were an average of 11,000 PPSN issued *monthly* in 2005, compared with an average of 7,000 in 2004.²⁵ The latest Quarterly National Household Survey for the fourth quarter of 2005 provides an estimate of approximately 73,000 for the number of Accession State nationals aged fifteen and over who are living in Ireland.²⁶

Discrimination in employment on the ground of 'race' is prohibited by the Employment Equality Act 1998 and cases can be taken to the Equality Tribunal. Research currently being carried out by the NCCRI finds that only seventeen per cent of cases of discrimination on the grounds of 'race' from 2000 – 2005 were decided in favour of the complainant. Half of the successful cases over this period were in favour of British or Australian employees.²⁷ This might indicate that the mechanisms for effectively bringing complaints are not as accessible to people from other nationalities or minority ethnic backgrounds, particularly given that there is research to indicate that migrant workers experience workplace exploitation, including dismissal and non-payment of wages.

Organisations such as the Migrant Rights Centre Ireland (MRCI) support migrant workers to seek redress. The Labour Rights Commissioners investigate breaches of a range of employment legislation (excluding equality legislation); their hearings are held in private and recommendations or decisions are not published. However, the Migrants Rights Centre Ireland is currently carrying out an analysis of cases they have supported before various bodies, including the Rights Commissioners.²⁸ Of the sixty-nine cases analysed, forty-eight cases were settled, five failed and eighteen were successful in court. This information would suggest that migrant workers are more successfully seeking redress on exploitation in other ways, rather than taking direct / indirect discrimination cases to the Equality Tribunal (which they could do where the exploitation is directly targeted at migrant workers or is disproportionately affecting migrant workers).

Work permits

With the opening of the labour market to EU Accession States (i.e. work permits are no longer required for people from these countries), the categories of work for which it was possible to apply for a work permit were limited. The result was a significant decline in non-EEA workers: the 2004 figure was 34,067, a drop of 28% on 2003, and 27,136 for 2005.

²⁴ "...(PPSNs) are individual identifiers required in order to gain employment in Ireland or to access state benefits and public services. PPSNs provide a good indication of the short-term trends in migration into Ireland from the EU10. It is important to note that PPSNs record the monthly gross inflows of migrants from the Accession States who are predominantly looking for employment and not the increase in the stock of migrants. The number of PPSNs issued is likely to overstate the stock of Accession State nationals as they will also include those EU10 migrants who work in Ireland for only a short period of time and return home."

Doyle, N, Hughes, G. & Wadenjo, E. (2006) "Freedom of Movement for Workers from Central and Eastern Europe", p.59, available at: www.esri.ie, (26.05.2006).

²⁵ Watt, P. and McGaughey, F. (2006) "How Public Authorities Provide Services to Minority Ethnic Groups", p.14, available at: www.nccri.ie, (28.04.2006).

²⁶ In: Doyle, N, Hughes, G. & Wadenjo, E. (2006) "Freedom of Movement for Workers from Central and Eastern Europe", p.59, available at: www.esri.ie, (26.05.2006) .

²⁷ Two of the successful complainants in 2004 were British and a third was Australian.

²⁸ Information provided by Migrant Rights Centre Ireland, report currently in press.

The Employment Permits Bill was published at the end of June 2005, one its aims was to address workplace exploitation of migrant workers. This Bill is still in the legislative process and has not yet been adopted as legislation. The NCCRI welcomed the publication of the Bill but was concerned that it provides for information about the renewal of a permit and the original of the permit itself to be made available to the worker, yet failed to place the ownership of the work permit with employees which leaves the migrant worker potentially vulnerable to exploitation in the workplace and in fear of taking a complaint against their employer.²⁹

J. Vulnerable groups

The previous ECRI report states that there is a 12,000 strong Muslim minority living in Ireland. The 2002 Census in fact placed the number at 19,147 people. The results of the 2006 Census will provide a more accurate number of Muslims living in Ireland. It may not be accurate to say that many of the Muslim community “arrived as asylum seekers”.

The NCCRI Racist Incidents Reports from 2001 – 2005 indicate some level of discrimination and racist crime against members of the Muslim community, including incidents against Muslim women wearing the Hijab.³⁰ These reports also indicate that many racist physical attacks, attacks on property and verbal abuse are directed at people from visible minorities.

K. Conduct of certain institutions

Law Enforcement Officials

There has been a continuing commitment to anti-racism and Interculturalism by An Garda Síochána since the last report. The following initiatives may be of particular interest, some of which follow up on recommendations made in the last ECRI report.

- A Garda Human Rights Audit was commissioned in 2003 and an action plan to implement the findings of the audit was published in 2005.
- Under the National Action Plan Against Racism (NPAR), the Gardai are expected to develop Anti-Racism and Diversity Plans at city and county level. The NPAR also provides for regional policing forums, with participation from minority ethnic groups.
- In August 2005, the Government launched a recruitment campaign to encourage people from minority ethnic groups to join An Garda Síochána. To advise on this development, a working group was set up with representatives from Garda management, the Garda Racial and Intercultural Office, the Public Appointments Commission and the NCCRI. Application requirements were changed so that Irish language is no longer an entry requirement; rather, applicants will be required to speak two languages, one of which must be English or Irish.
- A Garda Inspectorate is being set up. The Inspectorate will be independent and will ensure that the resources available are used to achieve and maintain the

²⁹ NCCRI (2005) Submission to the Immigration and Residence in Ireland Discussion Document. Available at: www.nccri.ie/submissions/05JulyImmigrationResidence.pdf

³⁰ Six monthly reports are available at: www.nccri.ie/incidents.html.

highest levels of efficiency and effectiveness in its operation and administration, as measured by reference to the best standards of comparable police services.³¹

L. Monitoring of the Situation

Monitoring has improved since the last ECRI report, although it remains an area requiring attention. Of note is the fact that the Census carried out in 2006 included a question on ethnicity for the first time, as well as the existing question on membership of the Traveller community. Census forms were also made available in 16 languages.

Government service providers in general tend not to collect data on nationality / ethnicity / language etc.. Some data collection does take place, but it is sporadic. For example, there is a post-primary pupil database in Ireland which collects information on country of origin, but there is no equivalent primary level database, even though the majority of children from minority ethnic groups are in the primary system.³²

Racially motivated crimes and other racist incidents

Racially motivated crimes are recorded by An Garda Siochana, although numbers remain low and it is likely that there is under-reporting of such crime.(INSERT NUMBERS?)

The NCCRI has a racist incidents reporting function, although 'incidents' can include racial discrimination and may not be limited to racially motivated crimes per se. This is not intended to be a comprehensive log of racist incidents; rather it complements other data sources and indicates trends.³³

Discrimination

The Equality Authority and Equality Tribunal produce annual reports providing information on the cases handled during the year, and the Equality Tribunal publishes decisions on a regular basis on their website. In the case of the Equality Authority, data is provided annually on the number of 'case files'; however, the Equality Authority has discretion in the cases it takes on as case files across the grounds, therefore these case files are not an accurate measure of the levels of discrimination. The Equality Tribunal publishes only decisions and not the outcomes from mediations.

One trend to have emerged from the reports of the Equality Tribunal in relation to the Equal Status Act 2000 and 2004 (prohibiting discrimination in the provision of goods and services) is the large number of complaints lodged by Travellers (a small percentage of the population) regarding discrimination in accessing services, particularly licensed premises. However, a Commission on Liquor Licensing was set up which recommended that equality cases relating to licensed premises go before the District Court, which was implemented by the Intoxicating Liquor Act 2003. Unlike the Equality Tribunal, the District Court does not have an investigatory role nor a broad right of audience. NGOs

³¹ Department of Justice, Equality and Law Reform (2005) "Establishment of a Garda Siochana Inspectorate", available at: www.justice.ie/80256E010039C5AF/vWeb/pcJUSQ6JPM48-en, (25.05.2006).

³² Watt, P. and McGaughey, F. (2006) "How Public Authorities Provide Services to Minority Ethnic Groups", pp.41-42, available at: www.nccri.ie, (28.04.2006).

³³ NCCRI racist incidents reports are available at: www.nccri.ie/incidents.html.

report that the result has been a reduction in the number of cases.³⁴ The very low levels of compensation awarded to successful complainants by the Equality Tribunal in cases of discrimination in service provision on grounds of membership of the Traveller community is also evident. For example, the average award in 2003 was €623; which is not effective, dissuasive, or proportionate.³⁵ Awards in other grounds of the equality legislation have been higher.

Lack of reporting

It is interesting to note that most discrimination in Ireland goes un-reported according to a study in 2004. The study by the Central Statistics Office concluded that almost 60 per cent of persons who reported experiencing discrimination took no action (verbal, written or official complaint or legal action) in relation to the discrimination experienced.³⁶ The survey also found that the groups reporting the highest rates of discrimination were also the groups least likely to take action. A similar trend is evident in relation to knowledge of rights under Irish equality law. Almost 25 per cent of persons who reported experiencing discrimination indicated that they have no understanding of their legal rights from an equality perspective. Again the groups reporting the highest rates of discrimination were also the groups that reported the highest rates of having 'no understanding' of their rights under Irish equality legislation. Much higher rates of discrimination were reported by 'non-Irish nationals' (24.4 per cent) and people from non-white ethnic backgrounds (31.5 per cent).

M. Media

Media reporting in relation to people from minority ethnic groups has continued to vary – some is balanced, while there have been some cases of irresponsible reporting. For example, there was sustained anti-Traveller discourse in the media in 2005 when a Traveller was killed and a man was convicted and sentenced to imprisonment.³⁷ The National Action Plan Against Racism includes a strong focus on the media. Also, the Government has proposed a Press Council; however there are concerns that this will not be sufficiently robust.³⁸

³⁴ Statistics from the District Court are not available.

³⁵ Crowley, N.(2005) "An Ambition for Equality": Irish Academic Press, Dublin, p.89.

³⁶ Central Statistics Office (2004) "Quarterly National Household Survey", available at: www.cso.ie (21.10.2005)

³⁷ McGaughey, F. (2005) *Media Review: The Ward/Nally Case*, in *Spectrum*, Journal of the NCCRI, Issue 10. Available at: www.nccri.ie/pdf/spectrum10.pdf

³⁸ Watt, P. (2006) *Will the Forthcoming Press Council be Sufficiently Robust?* in *Spectrum*, Journal of the NCCRI, Issue 11. Available at: www.nccri.ie/pdf/Spectrum11.pdf

Section II: Issues of Particular Concern

N. Traveller Community

It is important to note that the Irish Government do not in fact recognise Travellers as an ethnic minority group. The following recommendation was made on this issue by the UN CERD Committee following Ireland's first report to the Committee:

"Welcoming the open position of the State party in this respect, the Committee encourages the State party to work more concretely towards recognizing the Traveller community as an ethnic group."³⁹

Unfortunately in relation to the Task Force commended in the previous ECRI report, it appears that this Task Force will be discontinued. A High Level Group on Travellers was established by the Government in 2003 and published its report in 2006.⁴⁰ However, it is concerning that the group does not include any representatives from the Traveller community.

Education

A survey carried out in 2004 by the Department of Education and Science indicates that there remains significant scope for improvement in the educational provision for Travellers in schools.⁴¹ It finds that absenteeism remains a major problem for Traveller pupils in primary and post-primary schools; and that the majority of Traveller pupils have very low attainment levels in literacy and numeracy. It also finds that many Traveller children are alienated from the education system and leave school early.

In relation to third-level education, the Higher Education Authority has established a National Office for Equity of Access to Higher Education. Its Action Plan for 2005 – 2007 states the following:

"This plan sets out the rationale behind equity of access and the practical steps that are required to create this opportunity for groups who have, to date, been underrepresented in higher education. These include learners with a disability, mature students, disadvantaged school leavers and members of the traveller community and ethnic minorities. Effective implementation of the plan will mean that these groups are enabled and encouraged to enter, and successfully participate in, higher education."⁴²

Accommodation

There remain problems in relation to adequate and suitable accommodation for Travellers. Many Travellers continue to live on the side of the road without access to basic facilities and without access to halting sites or other forms of Traveller specific accommodation. Many others continue to live in sub standard official and temporary halting sites.

³⁹ CERD Committee (2005) "Concluding Observations by the Committee on the Elimination of Racial Discrimination: Ireland", UN Doc: CERD/C/IRL/CO/2 10 March 2005, at 20.

⁴⁰ <http://www.justice.ie/80256E01003A02CF/vWeb/pcJUSQ6NACN5-en>

⁴¹ Department of Education and Science (2006) "Survey of Traveller Education Provision", available at: www.education.ie/servlet/blobServlet/des_insp_travellers_ch2_te.htm#2, (29.05.2006).

⁴² National Office for Equity of Access to Higher Education (2005) "Action Plan: 2005 – 2007", available at: www.hea.ie/index.cfm/page/sub/id/990, (07.02.2006).

The Monitoring Committee for the Implementation of the Recommendations of the Task Force on the Travelling Community reported in 1999 that the accommodation provision of Travellers was worse than the position in 1995.⁴³ However, in the second report of the Committee in 2005, it reported that whilst problems still exist the number of families on unauthorised sites had reduced under the programmes from 1,207 families, to 601 families at the end of 2004.⁴⁴ Statistics published by the Department of Environment, Heritage and Local Government indicate that the number of Traveller families living on unauthorised sites had further decreased to 589 in 2005.⁴⁵

Section 10 of the Housing (Miscellaneous Provisions) Act, 1992, as amended by Section 32 of the Housing (Traveller Accommodation) Act, 1998 extends the powers of local authorities to move on Travellers. NGOs are concerned at increased use of Section 10, meaning that Travellers are moved on without being offered alternative accommodation.⁴⁶

Empowerment

As mentioned above, a High Level Group on Travellers was established by the Government in 2003 and published its report in 2006.⁴⁷ In terms of employment, it is concerning that the group does not include any representatives from the Traveller community.

O. Awareness Raising

The NCCRI in conjunction with the Department of Justice, Equality and Law Reform has been holding awareness raising activities, particularly with a focus on the International Day for the Elimination of Racial Discrimination on 21st March each year. A week-long focus on anti-racism and Interculturalism has taken place at this time each year. In 2006, this included a series of anti-racism radio advertisements.

Political protocol

To minimise the likelihood of political parties exploiting issues relating to minority ethnic groups during the election in 2004, the NCCRI in conjunction with the Minister for Justice, Equality and Law Reform, developed an anti-racism election protocol for all political parties. This protocol provided a commitment that parties would:

- agree to send a clear and consistent message that they reject racism;
- condemn any materials which might incite hatred;
- ensure responsible debate on the issues;
- use appropriate and inclusive language; and

⁴³ First Progress Report of the Committee to Monitor and Co-Ordinate the Implementation of the Recommendations of the Task Force on the Travelling Community (2000), available at: www.justice.ie/80256E010039C5AF/vWeb/pcJUSQ5ZCBRV-en, (05.05.2006).

⁴⁴ Second Progress Report Of the Committee to Monitor and Co-Ordinate the Implementation of the Recommendations of the Task Force on the Travelling Community, 2005, available at: <http://www.justice.ie/80256E010039C5AF/vWeb/pcJUSQ6K2L2B-en>, (05.05.2006).

⁴⁵ Available at: www.environment.ie/DOEI/DOEIPub.nsf/wvNavView/RegularPublications?OpenDocument&Lang=en#I2, (05.05.2006).

⁴⁶ Irish Traveller Movement (2005) "Submission on the National Action Plan Against Poverty and Social Exclusion", available at: www.itmtrav.com/publications/Subm-NAPS05.html, (05.05.2006).

⁴⁷ <http://www.justice.ie/80256E01003A02CF/vWeb/pcJUSQ6NACN5-en>

- inform all political party campaigners about the protocol.⁴⁸

Attitudinal research

The Know Racism campaign included attitudinal research and was carried out in 2003 and results were published in 2004. Some findings were as follows:

Most people are reluctant to be seen as racist; however, there is a sense of threat from what is perceived as an uncontrolled influx of foreigners. This leads to a need to find grounds for resisting this influx while avoiding the racist label. The solution is to find ways to deny the legitimacy of the immigrant case and to exaggerate the benefits they receive. This is the origin of many immigrant myths.⁴⁹

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⁴⁸ NCCRI (2004) "Press Release: Launch of 'Count Me In' Initiative", available at: www.nccri.ie/press21Mar04.html, (26.04.2006).

⁴⁹ http://diversityireland.ie/Publications/upload/File/Millward-Brown-IMS-Presentation_26th_Feb_04.pdf