



European
Network
Against
Racism
Ireland

To the **Office for the Promotion of Migrant Integration/Department of Justice & Equality**
on the **State`s Draft Combined 5th 6th & 7th Report** in **Response** to the **Recommendations**
of the **United Nations Committee on the Elimination of Racial Discrimination**
- Submission of ENAR Ireland, the European Network Against Racism, Ireland –
January 2018

ENAR Ireland:

ENAR Ireland (The European Network Against Racism Ireland) is a networking NGO with 79 Civil Society organisations, drawn from across the spectrum of minority identities and experiences, all working to common positions for combating racism in Ireland at a local, national and European level. It is the Irish Coordination of ENAR, the European Network Against Racism. It manages iReport.ie, the online racist incident monitoring instrument from which ENAR Ireland publishes reports on racist incidents, including hate crimes, producing reports and offering analyses on racism in Ireland. ENAR Ireland offers expert analysis on hate crime, on hate crime monitoring and hate crime training in Ireland and across the EU. ENAR Ireland's analysis situates hate crime, hate incidents and incidents of racist discrimination within the context of structural, institutional and cultural arrangements which enable racism. With respect to racism, racist discrimination and hate crime, ENAR Ireland calls for Ireland to make itself fully compliant with the International Bill of Rights, the European Convention on Human Rights, the EU Framework Decision on Racism and Xenophobia, the Victim's Directive, the 2001 UN Durban Declaration on Racism, and the recommendations of the ECRI, the OSCE and the FRA. Specifically it calls for a National Action Plan Against Racism, across all state functions, institutions and policy areas, to be driven and monitored by a statutorily guaranteed and independent National Consultative Committee on Racism and Interculturalism (NCCRI). It calls for hate crime Legislation, comprehensive strategies for the inclusion of the most marginalised, including Travellers and Roma, and comprehensive root-and-branch human rights reform of all policing and criminal justice functions in Ireland, with particular respect to hate crime and policing a multi-ethnic society. ENAR Ireland is the coordinating organisation on the national Steering Group on Hate Crime which has been working with Oireachtas members from all political parties to garner support for a workable hate crime bill.

ENAR Ireland is a national network of 79 organisations working collectively to highlight and combat racism and the National Coordination for the European Network Against Racism.

ENAR Ireland, 28 North Great George's St, Dublin, D01HY46. info@enarireland.org 01 8897110 www.enarireland.org



European
Network
Against
Racism
Ireland

ENAR Ireland's Comments on the State's Draft Combined 5th 6th & 7th Report, With respect to the concluding observations from CERD's 3&4th report for Ireland:

Paragraph 11: Following Durban, statutorily guaranteed and fully independent equality infrastructure should not be shed in response to crisis:

ENAR Ireland calls for the immediate restoration of a statutorily guaranteed and independent National Consultative Committee on Racism and Interculturalism (NCCRI). Among its functions, the NCCRI should develop and monitor the implementation and evaluation across all state and public functions of a Durban Declaration compliant National Action Plan Against Racism.

ENAR Ireland notes the creation of the Irish Human Rights and Equality Commission, and welcomes its adherence to the Paris Principles of independence. We call for a guaranteed minimum ring-fenced budget for IHREC, to be set at a minimum to the levels of the combined pre-austerity budgets of the Equality and Human Rights Commissions. We call for independent oversight and monitoring of the Commission's adherence to the Paris Principles in all its functions, including its recruitment processes, to assure public confidence in the body.

ENAR Ireland calls for the restoration of the Combat Poverty Agency.

Paragraph 12, on Traveller Ethnicity

While ENAR Ireland welcomes what the State refers to as the "*Legal recognition of Travellers as an ethnic minority in 2017*", it shares the concern of its Traveller-led members' observations that this may amount only to a `symbolic` recognition which has yet to translate into concrete gains for Travellers. It remains the hope of Travellers that improved regard from agencies will facilitate better health, education, employment and accommodation outcomes. However as multiple reports from 2017 and 2018 show, Travellers and Roma still experience high levels of hostility in every aspect of their everyday lives. We call for this recognition to be given statutory footing to give legal effect to Traveller ethnic recognition.

Paragraph 13 Traveller Accommodation and NTRIS

ENAR Ireland supports its Traveller-led member organisations position that "The state's response should include a commitment to return to a ring-fenced budget for Traveller accommodation to the pre-austerity level. The state should also commit to immediately develop a system to ensure allocations for Traveller accommodation are speedily processed, drawn down and spent, while committing itself to the implementation of the outcomes of the review of the Traveller Accommodation Act." (Cork TVG, 2018)

Paragraph 14, affirmative Action for Travellers in all areas of life including Public and political life.

ENAR Ireland calls for the creation of an electoral college which elects 3 members of Seanad Eireann from ethnic minority backgrounds, at least one of whom must be a Traveller. Ring-

ENAR Ireland is a national network of 79 organisations working collectively to highlight and combat racism and the National Coordination for the European Network Against Racism.

ENAR Ireland, 28 North Great George's St, Dublin, D01HY46. info@enarireland.org 01 8897110 www.enarireland.org



European
Network
Against
Racism
Ireland

fenced funding should be made available to develop and support the capacity of minority leaders to engage minority constituencies and bring their perspectives to the heart of policy development and governance.

The State should reform the capacity of the criminal justice system to combat hate crime, including the introduction of hate crime legislation.

Paragraph 15, comprehensive immigration legislation

ENAR Ireland supports the Migrant Rights Centre Ireland's position that the State has not met CERD's recommendations set out in Paragraph 14, noting that "successful integration, including freedom from structural and incidental racism, can only be achieved through comprehensive legislation which addresses rights, entitlements and obligations." The International Protection Act 2015 is not such a piece of legislation.

Paragraphs 16 and 17, the incorporation of ICERD into domestic law and the State reservation on Article 4 (Freedom of Speech).

ENAR Ireland notes that Ireland is an outlier among liberal democratic countries in not fully transposing and incorporating the full text of ICERD into domestic law, and that the Reservation on Article 4 is groundless in the context of contemporary legal thinking and jurisprudence on freedom of speech.

Paragraph 18, recommending the prohibition of racial profiling by An Garda Síochána, and policing a multi-ethnic society.

ENAR Ireland notes the state's response that "*An Garda Síochána does not, as an institution engage in discriminatory profiling*" and also notes that without reliable ethnic identifiers or data, An Garda Síochána is not in any position to provide any evidence to support this assertion. In contrast to this, ENAR Ireland data and contact with minority organisations suggests that there is a widespread perception that racial profiling and biased policing are commonplace. This is supported by the 2017 'Behaviour and Attitudes' National Traveller Survey finding that 70% of Travellers had experienced discrimination by Gardai. In the light of this, explicitly prohibiting the practice of racial profiling would go a long way to restoring public confidence in An Garda Síochána.

ENAR Ireland recognises that the personnel at GRIDO, the Garda Racial and Diversity Office make genuine efforts to engage minority communities. However we have such grave concerns about its lack of standing, powers and resources that we believe its existence to be counter-productive. The relegation of minority issues into the 'silo' of GRIDO provides a fig-leaf for the force's lack of capacity to fairly police in a multi-ethnic society, and effectively gives license to the practice of inappropriate and discriminatory policing of minority communities. ENAR Ireland, in its forthcoming 'Submission to the Commission on the Future of Policing in Ireland' will be calling for the disbandment of GRIDO and the network of Ethnic Liaison Officers (ELOs) and in their place have specialist hate crime units.

We will be calling for a root-and-branch overhaul of all police practice in Ireland, the establishment of a police service, rather than a force, suited to the needs of guaranteeing equal access to justice and equal protection for all minorities. To do this, a police service must embed human rights and anti racist practice into every aspect of policing from training, to practice, to appraisal. In line with this, we fully support CERD's call for the prohibition of

ENAR Ireland is a national network of 79 organisations working collectively to highlight and combat racism and the National Coordination for the European Network Against Racism.

ENAR Ireland, 28 North Great George's St, Dublin, D01HY46. info@enarireland.org 01 8897110 www.enarireland.org



European
Network
Against
Racism
Ireland

racial profiling. A human-rights based police service needs to integrate transparency, oversight and community accountability into every aspect of its functions.

Paragraph 19 the prohibition of racist organisations.

ENAR Ireland notes the rise and influence of neo-nazi, fascist, explicitly racist and other violent far right organisations across Europe and the West. It also notes the mainstreaming of far right discourses, including racist and xenophobic discourses, and the commensurate rise in racist hate crimes, including in Ireland. ENAR Ireland believes that Ireland is not immune from the effects of this, the single biggest threat to public order and existential threat to liberal democratic societies. ENAR Ireland urges the state to bring forward legislation providing for the curbing of the organisational capacity and eventual proscribing of violent racist organisations, with due regard to the provisions of the European Convention on Human Rights and the International Bill of Rights.

Paragraph 20 Direct Provision:

ENAR Ireland and its network of 79 members have long held a position calling for the complete abolition of Direct Provision and the granting of the right to work and state entitlements to people waiting in the asylum process. The ENAR Ireland network had grave concerns about, and did not support the establishment of, the Working Group on Direct Provision, or endorse the findings of its investigation. We also note that the government has not implemented significant parts of the Working Group's limited key recommendations. We remain firmly opposed to the long discredited regime of Direct Provision, a source of grave human rights violations.

Paragraphs 21 & 23 Racial discrimination, policing and hate crimes against Persons of African Descent (PAD):

ENAR Ireland notes that data collected over 4 ½ years through the iReport.ie racist incident reporting system consistently shows the highest numbers of reports of racist and discriminatory incidents being directed at Persons of African Descent (PAD). Our data supports CERD'S concerns that PAD disproportionately experience discrimination and racism including racist violence. Furthermore, we are concerned that An Garda Síochána's responses to this are frequently inadequate, inappropriate and in some cases racist. We are concerned that the under-reporting of racist hate crimes to An Garda Síochána and the under-recording by AGS of a racist motivation are symptoms of a criminal justice process that is unfit for policing a multi-ethnic society. We note that the State did not submit any data at all to the OSCE's ODIHR European Hate Crime report for Ireland in 2017. Instead ODIHR relied exclusively on ENAR Ireland and other civil society sources for its Irish hate crime data.

ENAR Ireland endorses CERD's concerns in these areas and calls for an overhaul of our capacity to provide an equal, fair and effective policing service in a diverse society.

ENAR Ireland, in its forthcoming 'Submission to the Commission on the Future of Policing in Ireland' will be calling for a root-and-branch overhaul of all police practice in Ireland, the establishment of a police service, rather than a force, suited to the needs of guaranteeing equal access to justice and equal protection for all minorities. To do this, a police service must embed human rights and anti racist practice into every aspect of policing from training, to practice, to appraisal.

ENAR Ireland is a national network of 79 organisations working collectively to highlight and combat racism and the National Coordination for the European Network Against Racism.

ENAR Ireland, 28 North Great George's St, Dublin, D01HY46. info@enarireland.org 01 8897110 www.enarireland.org



European
Network
Against
Racism
Ireland

Paragraph 24, the mainstreaming of Human Rights practice into An Garda Síochána and the Civil service:

ENAR Ireland welcomes the IHREC Act and S42 on the Positive Public duty in particular, as presenting opportunities for potential significant advances in creating a human rights and equality based culture in our institutions. It remains to be seen whether these aspirations translate into reality. Revising the functions of IHREC and the provisions of S42 to give them more 'teeth' would help.

While recognising that S42 audits of An Garda Síochána and the civil service may provide opportunities to frame recommendations to introduce Human Rights measures including Human Rights training, the existence of S42 is not the same thing as the mainstreaming of Human Rights practice in training, practice and appraisal.

ENAR Ireland, in its forthcoming 'Submission to the Commission on the Future of Policing in Ireland' will be calling for a root-and-branch overhaul of all police practice in Ireland, the establishment of a police service, rather than a force, suited to the needs of guaranteeing equal access to justice and equal protection for all minorities. To do this, a police service must embed human rights and anti racist practice into every aspect of policing from training, to practice, to appraisal.

As part of our call for a National Action Plan Against Racism, ENAR Ireland advocates the mainstreaming of human rights and anti racist practice in training, practice and appraisal throughout Irish state institutions, including the civil service.

Paragraph 25, Refugees, International Protection and Family Reunification

ENAR Ireland endorses of the position of the Migrants Rights Centre Ireland that the State's response does not address the Committee's concerns with regards international protection and family reunification, and its stated view that:

"the principles, rights and obligations related to family reunification are best dealt in the context of comprehensive immigration legislation. It is important that the State outlines its timeline for the introduction of such legislation. In the meantime, it is important that applications for family reunification incorporate an independent appeals mechanism. While the introduction of guidelines has been welcomed as a temporary measure, we believe that legislation is required as a matter of urgency"

Paragraph 26, Schools:

ENAR Ireland believes the state should commit itself to mainstreaming the Irish Traveller Movement's Yellow Flag multicultural schools diversity programme, which is held up as an example of best practice internationally. The Yellow Flag programme could be a flagship project of a National Action Plan Against Racism.

Paragraph 27 – National Womens Strategy

ENAR Ireland urges the mainstreaming of minority ethnic womens perspectives in all aspects of the National Womens Strategy, and the taking of affirmative action measures to assure minority womens representation and experiential expertise in all aspects of the development, implementation and monitoring of outcomes in the National Womens Strategy.

ENAR Ireland is a national network of 79 organisations working collectively to highlight and combat racism and the National Coordination for the European Network Against Racism.

ENAR Ireland, 28 North Great George's St, Dublin, D01HY46. info@enarireland.org 01 8897110 www.enarireland.org



European
Network
Against
Racism
Ireland

Paragraph 28 – Protection of Migrant workers

ENAR Ireland endorses of the position of the Migrants Rights Centre Ireland that the State's response does not adequately address the Committee's concerns with regards the protection of migrant workers and their families, and notes its opinion that:

“[it] is incorrect that the non-EEA nationals are offered the same employment protections as guaranteed by the Conventions... the scope of the Convention is not limited to employment issues but addresses other fundamental rights which are present in the International Bill of Rights and other international conventions which Ireland is part of. Secondly, one of the key features of the convention is the protection, including in employment law, of migrants irrespective of their legal status. Currently, it is unclear whether undocumented migrants can access compensation for breaches of employment law through the Labour Court and the State has failed to clarify this; and while the Employment Permits (Amendment) Act 2014 has introduced a provision for irregular migrants to seek compensation through the civil courts, it is only limited to breaches under the National Minimum Wage Act and only when it has been demonstrated that the applicant has taken all steps available to them in order to regain legal status. These restrictions do not represent an effective complaints mechanism for victims of labour exploitation, which as a matter of employment law should be addressed in employment courts and fall short of the protections guaranteed by the UN Convention.” (MRCI 2018)

Paragraph 29, the Durban Declaration and a National Action Plan Against Racism

ENAR Ireland notes that the Department of Justice's Integration Strategy is a far cry from a National Action Plan Against Racism, and shares the Committee's concerns that Ireland is not compliant with the Durban recommendations in this respect.

ENAR Ireland calls for the immediate restoration of a statutorily guaranteed and independent National Consultative Committee on Racism and Interculturalism (NCCRI). Among its functions, the NCCRI should develop and monitor the implementation and evaluation across all state and public functions of a Durban Declaration compliant National Action Plan Against Racism. The state should provide ring-fenced funding for such a body to drive a human-rights and anti racist mainstreaming overhaul of all state and public functions from training, to practice, to appraisal and monitoring.

Paragraph 30, International Year for People of African Descent (IYPAD):

ENAR Ireland notes that International Year and Decade for People of African Descent are about European residents who are of African descent, to celebrate their contribution to European society and examine the barriers and challenges they face, and that Africa Day is a different thing that is about International development and a focus on the African continent.

ENAR Ireland calls on the State to work with African associations and representatives and anti racist organisations to design and implement activities under the aegis of IYPAD.

Paragraph 31, to improve dialogue with Civil Society Organisations and cooperate to work on racism, discrimination and hate crime

ENAR Ireland is a national network of 79 organisations working collectively to highlight and combat racism and the National Coordination for the European Network Against Racism.

ENAR Ireland, 28 North Great George's St, Dublin, D01HY46. info@enarireland.org 01 8897110 www.enarireland.org



European
Network
Against
Racism
Ireland

ENAR Ireland welcomes any opportunity for improved dialogue with the State with regards to improving our capacity to guarantee equality for all, by protecting against and mitigating racist violence, and other racist and discriminatory practices. We welcome opportunities for dialogue around policing in a multicultural society, hate crime under reporting and data gaps, and the mainstreaming of anti racism and human rights practices in Irish society. We note that these have not happened to any significant degree in this reporting period and look forward to new opportunities for engagement.

Paragraph 32-35:

ENAR Ireland urges the State to make available in the public domain all reports relating to racism and discrimination, human rights and hate crime, including regular progress updates on the CERD reporting requirements. The State should provide resources to support programmes for making the CERD and other human rights reporting processes accessible and accountable to communities most affected by racism. Full transparency is needed to help empower communities to interrogate practices and hold institutions to account. Programmes for greater transparency and accountability should include facilitating the examination of all reports on information held by An Garda Síochána relating to human rights, diversity and anti racism training, hate crime data, records of interactions with persons from minority backgrounds, human rights and diversity policies, monitoring reports and all policy related information relevant to policing in a multi-ethnic society.

Dublin, January 31 2018.