



European
Network
Against
Racism
Ireland

ENAR Ireland Submission to ECRI NGO Roundtable – July 2018

About ENAR Ireland:

ENAR Ireland is the Irish coordination of the European Network Against Racism (ENAR). ENAR Ireland has 85 member organisations in its network and manages the racist incident reporting tool iReport.ie, from which it produces reports on trends and aspects of racism, racist incidents, racist hate speech and racist hate crime in Ireland. On a yearly basis, it is the principle source of racist hate crime data in the annual report to ODIHR/OSCE.

ENAR Ireland sits at the FRA/EC High Level Group on Hate Crime, and is the petitioner the EP's PETI commission examination of Ireland with respect to its obligations under the 2008 Framework Decision on Racism and Xenophobia.

ENAR Ireland is the coordinating organisation of the National Steering Group on Hate Crime, a coalition of individuals, legal and academic experts and civil society organisations spanning anti-racism, LGBT rights, disability rights and womens rights experiences who are advocating for Hate Crime Legislation and criminal justice system best practice with regards to protecting people who are targeted in hate crimes.

ENAR Ireland is a partner in the Facing all the Facts project which works to improve the capacity of criminal justice systems europe-wide to recognise and respond to hate crimes, by conducting research and developing resources.

ENAR Ireland is also coordinating the Civil Society Shadow Report for the forthcoming CERD monitoring cycle.

This submission was made in consultation with ENAR Ireland network members, and drafted by Shane OCurry, Director, ENAR Ireland, Dr Lucy Michael of Ulster University, and Ken McCue, Sport Against Racism Ireland (SARI).

ENAR Ireland and iReport.ie are made possible thanks to support from Pobal



The numbers used below relate to the numbers used in the paragraphs of the 2013 ECRI findings and recommendations in their Fourth Report for Ireland.

I Existence and Application of Legal Provisions

International legal instruments:

ENAR Ireland notes that the International Convention on the Elimination of Racial Discrimination has not been transposed into Irish Domestic law.

ENAR Ireland notes that the 2008 EU Framework Decision on Racism and Xenophobia has not been transposed into Irish domestic law.

ENAR Ireland notes that the 2015 EU Victims Directive has not been implemented in Ireland.

ENAR Ireland notes that the European Parliament's PETI Commission has accepted a complaint from ENAR Ireland and are currently investigating Ireland's compliance with the 2008 EU Framework Decision on Racism and Xenophobia (see appended document).

Constitutional Provisions:

17. There is no commitment to bring forward a referendum to provide constitutional protection against racism. Given the failure of the state to give legal effect to its 2017 recognition of Traveller ethnicity, such protection would be very welcome.

Criminal law provisions

18. The state has still not completed its review of the 1989 Prohibition of Incitement to Hatred Act. ENAR Ireland notes that the State has been reporting since at least 2006 to Intergovernmental and International Rights Organisations that it is conducting this review.

19 and 21: The absence of a significant increase in police recorded racist criminal offences does not reflect the ECRI recommendation in 2013 that existing law be "implemented more vigorously". Corresponding NGO data shows rising levels of racist incident reporting to bodies other than police.

24-25. There is no state commitment to new legislation on hate crime.

23. The Department of Justice and An Garda Síochána have taken inadequate steps to improve data collection on racist incidents. Racist incidents are routinely misrecorded, due to a lack of training or awareness of hate crime across the organisation, and there is evidence of extensive refusal to record bias motive or to adequately investigate incidents of harassment and violence.



ENAR Ireland has recorded extensive failures to effect the Victims Directive in communication to the victim and follow-up support to victims of racist incidents. There is no specialist victim support offered to ethnic minority victims of racist violence and inadequate response from existing victim support staff.

In iReport submissions over 3 years, we have identified patterns of systematic failure in An Garda Síochána in this area, which require strategic attention at senior level as well as training of front-line Gardaí. These include:

- Refusal to advise or act in cases of racist crime
- Failure to attend ongoing violent crimes
- Refusal to speak to perpetrators or relevant witnesses
- Hostile treatment of witnesses
- Failure to collect relevant evidence of crime and of bias element
- Failure to provide crime numbers to victims
- Diversion of victims and duplication of reporting
- Failure to provide information on status of case to victims, including to respond to direct and repeated queries from victims
- Failure to give crime prevention advice to victims
- Hostile interactions with ethnic minority public, including racial profiling, harassment and unwarranted searches
- Investigation of immigration status before investigation of racist crimes
- Lack of expertise in recording and investigating racist elements of crime
- Limited training and resourcing of Ethnic Liaison Officers
- Advice to victims which contradicts research on repeat harassment and endangers victims
- Unclear policies for dealing with repeat harassment and escalation

Civil and Administrative law provisions:

iReport.ie has collected evidence of ongoing discrimination in a wide range of areas of public life against minorities from all backgrounds.

Legislative protection for access to goods and services is weak in practice. This is true for discrimination against Travellers, people of African descent, Muslims, ethnic minorities and migrants.

ENAR Ireland calls for the extension of the Equality Acts to include An Garda Síochána and immigration authorities.



Anti Discrimination Bodies and Policies

59. This recommendation has not been met. The new Irish Human Rights and Equality Commission has no monitoring mechanism and neither is the mechanism continued by any other statutory body.

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.

63. National Action Plan Against Racism: Ireland's first and only National Action Plan Against Racism (NAPAR), adopted in 2005 and which expired in 2008, still has not been renewed in 2018. And there is no commitment to do so. This leaves a significant gap in government strategy to tackle racism and means that there is no over-arching guidance statutory bodies.

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

II Public discourse and media

70. Increasing racist discourse in newspapers and magazines suggest that the voluntary code of practice for media is ineffective. ENAR Ireland calls for a robust evaluation of the practice.

III Discrimination in various fields of life

72. Racist incidents continue to be significantly under-reported in Ireland, as demonstrated by ENAR Ireland's iReport.ie analysis (2013-18), and confirmed by An Garda Siochana and the Garda Inspectorate Report 2014.

Employment

85. The most recent EU MIDIS study conducted by FRA, the 2017 ESRI study on discrimination in employment, and the iReport.ie analysis demonstrate that there is significant ongoing racist discrimination in employment. A large number of hate crimes reported through iReport.ie occur in the workplace.

Housing

92. ECRI's recommendation of measures binding on local authorities has not been met. In the public housing sector, victims of racism are routinely removed

rather than perpetrators. Garda refusal to acknowledge hate crimes leaves victims of racism in housing unprotected.

Health

ENAR Ireland acknowledges that healthcare is a key area for engagement by ethnic minorities and migrants with public institutions. Racist discrimination in the provision of healthcare lowers trust in public sector institutions as a whole.

Education

ENAR Ireland notes that there is no consistent policy on racist education in institutions and that schools and universities are key sites for the commission of hate crimes. Lack of leadership from the department of Education on teacher training and incident recording makes this an area of concern.

105. ENAR Ireland notes the discriminatory access of asylum seekers and some refugees to higher education.

IV The situation of non-nationals Refugees and Asylum seekers

112. The introduction of the single procedure in January 2017 discriminated against asylum seekers who were not fluent and did not have access to English language support because of the short time frame (20 working days) allowed to those already in the system

116-117. ENAR Ireland notes that there has been no systematic review of Direct Provision. 17 Years after its establishment as a temporary measure, there is still no statutory basis for this highly restrictive and punitive system of controlling asylum seekers. The use of extensive private tenders provides an effective barrier to what very limited systems of accountability there are. There is no evidence that the authorities have considered any alternative system.

In addition, the recent changes to asylum seekers access to work are much more limited than originally anticipated. Asylum seekers who wish to appeal the first decision on their application are not entitled to access work. This affects the majority of asylum seekers in Ireland, effectively removing the simultaneous rights to work and to fair asylum procedure.

V Conduct of Law Enforcement officials

152. ENAR Ireland believes that there have been inadequate efforts to provide law enforcement training in human rights. Superficial training on racist discrimination and hate crimes have been offered on a voluntary basis to a small cohort of Gardai who have as part of their role, the job of Ethnic Liaison Officers. Foundation training for police recruits does not adequately equip

them for policing in a multi-cultural society, and there is no ongoing training in this area for police officers

153. ENAR Ireland notes that An Garda Síochána has not implemented any measure likely to ensure the recruitment of larger numbers of people from minority backgrounds.

156. There is no evidence that the authorities have considered legislation banning racial profiling. ENAR Ireland notes the state's response to UNCERD 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.

VI Monitoring

Ethnic data collection is notable for its continued absence in Ireland. There have been no efforts to emulate good practice in other European countries either in monitoring public sector employment or access to public service.

VII Education and awareness raising

163. Teacher Training: ENAR Ireland is not satisfied that the Human Rights and Anti Racism Element of the Teacher training Curriculum is adequate, particularly for the challenges faced in DEIS schools which are highly populated by ethnic minorities.

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.

164. The Irish Authorities have not led any anti-racism awareness measures since before the last ECRI report.