



Rialtas na hÉireann  
Government of Ireland

# Interim Report to the Minister for Children, Equality, Disability, Integration and Youth

Anti-Racism Committee

30 November 2020



# Contents

<b>Section One – Introduction</b>	<b>4</b>
1.1 Introduction	4
1.2 Terms of Reference	4
1.3 Terminology & Interpretation of Terms of Reference	5
1.4 Understandings of Racism	5
1.5 Guiding Principles	7
1.6 Context	9
1.6.1 Demographic Context	9
1.6.2 Legal Context	9
1.6.3 Policy Context	11
1.6.4 International Monitoring	12
1.7 Focus on Action-Oriented Responses	12
<b>Section Two – Interim Recommendations and Priority Issues for Development of NAPAR</b>	<b>14</b>
2.1 Interim Recommendations	14
Interim Recommendation One: Remove reservation to Article 4 of CERD	14
Interim Recommendation Two: Take steps to put in place ethnic equality monitoring across all public services	14
Interim Recommendation Three: Remove all barriers to accessing support for migrant women experiencing gender-based violence	15
2.2 Priority Issues for Consideration in Development of NAPAR	15
<b>Section Three – Programme of Work</b>	<b>19</b>
3.1 Work to Date	19
3.2 Planned Programme of Work December 2020 to August 2021	19
3.2.1 Methodology	19
3.2.2 Consultations	20
3.2.3 Drafting	21
3.2.4 Implementation	21
<b>Section Four – Conclusion</b>	<b>23</b>
<b>Appendices</b>	<b>25</b>
Appendix A Members of the Anti-Racism Committee	25
Appendix B Meetings and Consultations to Date	26

# 1

# Introduction

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## IN THIS CHAPTER

- 1.1. Introduction
- 1.2. Terms of Reference
- 1.3. Terminology & Interpretation of Terms of Reference
- 1.4. Understandings of Racism
- 1.5. Guiding Principles
- 1.6. Context
- 1.7. Focus on Action-Oriented Responses

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# Section One

## Introduction

### 1.1 Introduction

We, the Anti-Racism Committee, present this Interim Report, in accordance with our Terms of Reference, which require us to make an Interim Report to Government three months after our first meeting. This Report fulfils that requirement.

In this first section of the Report we introduce the overall approach we intend to take to our work. We include our Terms of Reference, as set by the Minister for Justice and Equality, and the guiding principles and understandings of racism that we have decided to employ. This section also briefly summarises the societal and policy context for our work. The second section of the Report identifies the priority issues that we believe necessary to consider in the development of a new National Action Plan Against Racism for Ireland. In this section, we also identify three recommendations for urgent action, pending the adoption of a full National Action Plan Against Racism. The third section of the Report sets out our Programme of Work. This describes the work we have done to date, and our methodology for the development of the Action Plan. The fourth and final section provides a brief Conclusion to the Report.

### 1.2 Terms of Reference

Our Terms of Reference are as follows:

- To review the current evidence and outcomes, including identifying data gaps, in relation to racial discrimination in Ireland;
- To examine and benchmark against international best practice in combating racism;
- To hold stakeholder dialogue and consultation to identify the views of wider civil society; members of the public; members of the Oireachtas; the business sector; media and other relevant parties; relating to the development of a society where institutional and individual racism are not tolerated;
- To develop a blueprint for a draft national strategy against racism;
- To produce an interim report to Government not more than three months after its first meeting identifying priority issues and a programme of work for the Committee;
- Having regard to the review of evidence, including state responses to UN and European commitments; international practice; the outcome of stakeholder dialogues; and taking account of the Durban Declaration and Programme of Action; to provide a draft anti-racism strategy, containing a clear action plan, at the end of one year that:
  - identifies priority issues to be addressed;
  - makes recommendations on strengthening the Government's approach to combating racism, building on the actions currently included in the Migrant Integration Strategy and the National Traveller and Roma Inclusion Strategy;
  - generates ideas and make recommendations for reducing racist abuse in the public space including online.

A list of Committee members is supplied at Appendix A to this Report.

## 1.3 Terminology & Interpretation of Terms of Reference

Throughout this Report, we use the phrase ‘National Action Plan Against Racism’ to describe our work. This is the terminology used internationally to describe State level strategic approaches to combatting racism. It is in line with the Durban Declaration and Programme of Action of 2001, to which Ireland is a signatory, and the more recent European Union Anti-Racism Action Plan (2020-2025). Ireland’s Programme for Government 2020 also contains a commitment to ‘publish a new national action plan against racism’<sup>1</sup>. The Terms of Reference of our Committee task us with developing a ‘draft anti-racism strategy, containing a clear action plan’. We use the term ‘National Action Plan Against Racism’ to describe such a document, which will incorporate strategic objectives; the actions we identify as necessary to achieve these objectives; and the strategies that will be required to implement these actions. In this way, it is fully aligned with our Terms of Reference.

## 1.4 Understandings of Racism

We understand racism to mean ‘the power dynamics present in those structural and institutional arrangements, practices, policies and cultural norms, which have the effect of excluding or discriminating against individuals or groups, based on their identity, as outlined in Article 1 of the International Convention for the Elimination of Racial Discrimination (ICERD), which provides:

- *‘...the term “racial discrimination” shall mean 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.’*

The EU Action Plan Against Racism 2020-2025 acknowledges the prevalence and impact of racism across the EU, and states:

- *Racism comes in different forms. Overt expressions of individual racism and racial discrimination are the most obvious. All too often, racial or ethnic origin is used as a ground to discriminate – the COVID-19 pandemic and the aftermath of terrorist attacks are just the most recent cases where blame has been unjustly directed at people with a minority racial or ethnic background. People of Asian and African descent, Muslims, Jewish and Roma people have all suffered from intolerance. But other, less explicit forms of racism and racial discrimination, such as those based on unconscious bias, can be equally damaging.<sup>2</sup>*

We acknowledge the intersectionality between racism and all other forms of oppression, including the oppressions experienced by people based on gender, sexuality, gender identity, disability and socio-economic circumstances. We further acknowledge that women, children and men experience dimensions of racism differently.

The understanding we have adopted is a living one, building on international legal concepts and obligations as well as relevant EU and Irish legislation and underscoring the importance of intersectionality, which will facilitate exploring coexisting identities and connected types of oppression related to gender, disability, etc.

<sup>1</sup> Programme for Government: Our Shared Future, p.87

<sup>2</sup> EU Action Plan Against Racism (2020-2025), p.1

The Committee recognises that the groups affected by racism in Ireland may not be confined to those covered by our international commitments, including ICERD and EU legislation. We further recognise the need to ensure that the Action Plan includes citizens and residents, migrant workers (documented or undocumented), refugees and asylum seekers. As recognised in the UN Durban Declaration on Racism and Programme of Action (DDPA), racism is a structurally embedded phenomenon of domination and power, which is reflected through, and reproduced by, institutional arrangements. Racism is embedded in structures, reflected and reproduced by institutions and experienced individually. This interplay between structure and institutions in the reproduction of racism, is referred to as 'systemic racism'.

Racism occurs in many areas of society and affects many aspects of people's lives. Racism is embedded in structures; reflected and reproduced in institutions; practices, policies and cultural norms, and through them has the effect of excluding or discriminating against individuals or groups, based on their race or ethnicity (including nationality and membership of the Traveller community). Racism is present whether the exclusion is intentional or not. This systemic racism is manifest in the ways that it prevents people from enjoying their rights across many domains, including their economic, social and cultural rights, as well as their civil and political rights. For many people living in Ireland, racism, in one form or another, is part of their everyday lives. Racial discrimination interacts with other forms of discrimination.

Furthermore, a focus on the root causes of racism will ensure that the action plan remains future proofed, and so enabled to counteract new manifestations of racism which may emerge.

Following our understanding of racism as a dynamic, living phenomenon, we recognise that evidence may emerge that groups and categories of people previously unnamed may come to be recognised as experiencing racism, and recommend that any National Action Plan Against Racism should accommodate this. Equally important is that the Plan is rooted in a commitment to human rights values, democracy and the rule of law. These values must characterise the approach and inform the actions of Irish society in combating the pernicious challenge of racism.

Several reforms are underway in Ireland that will be important in strengthening people's legal protections from racism. These include proposed hate crime legislation and online media regulation. Reforms such as these are an important and visible manifestation of a society's intolerance of certain behaviour. However, we are acutely aware that, in themselves, they cannot be expected to bring about the societal and cultural changes that are required. To support meaningful and sustained progress in the fight against racism, education and other initiatives, including exploration of other forms of obligations and sanctions to ensure accountability within both the private and public sphere, will be critical. In this way we will develop a National Action Plan Against Racism that is impactful.

The issues that we have identified below will require detailed consideration and engagement with stakeholders in order to frame meaningful actions for inclusion in the Plan. However, there are several actions that we are recommending be implemented urgently, without waiting until the full Plan has been developed and submitted to Government.

## 1.5 Guiding Principles

We have adopted key principles to guide our work. Reflecting our commitment to the Durban Declaration and Programme of Action which Ireland signed up to in 2001, we intend to develop a National Action Plan Against Racism that is compliant in its development methodology and content, with the Guiding Principles provided by the United Nations to the creators of National Action Plans Against Racism<sup>3</sup>. These guiding principles are as follows (we include the narrative from the UN explaining how each principle should be applied during the creation of the National Action Plan):

### **i. Universality**

The national action plan against racial discrimination should recognize that fundamental human rights norms enjoy universal protection by customary international law across all borders and civilizations. The national action plan should be consistent with the State's duty to promote and protect human rights and fundamental freedoms, regardless of its political, economic or cultural system.

### **ii. Interdependence and Indivisibility**

The national action plan should give equal attention to all categories of rights, including civil and political rights, as well as economic, social and cultural rights, especially bearing in mind that the denial of one right invariably impedes the enjoyment of the others.

### **iii. Participation and Inclusion**

The national action plan against racial discrimination should guarantee full, effective and equal participation. It should empower individuals and groups that have faced or face racial discrimination to identify their human rights needs and to ensure that they are met. The Durban Programme of Action states that action plans should aim at creating conditions for all to participate effectively in decision-making and realize civil, cultural, economic, political and social rights in all spheres of life on the basis of non-discrimination (para. 99). It also encourages States, in developing and elaborating such action plans, to establish, or reinforce, dialogue with NGOs in order to involve them more closely in designing, implementing and evaluating policies and programmes.

### **iv. Equality and Non-Discrimination**

The principle of non-discrimination is the cornerstone of human rights law and a principle included in all human rights treaties. The national action plan against racial discrimination should be guided by the principle of the enjoyment of human rights on an equal footing as an integral part of the prohibition of racial discrimination. It must strive to guarantee that human rights are applied on a basis of equality of access, opportunity and results, in fact and in law, for all persons. It should give due priority to those who are most vulnerable to racial discrimination.

### **v. Accountability**

To be effective, the national action plan against racial discrimination requires the development of a system of accountability based on specific, ascertainable goals. It should develop mechanisms to hold the institutions in charge of its implementation accountable to those groups and individuals whose rights it is intended to promote and protect.

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3 Developing National Action Plans Against Racial Discrimination: A Practical Guide, UN OHCHR, 2014

The evaluation of the plan should be subject to open scrutiny, comment and debate in order to contribute to the implementing institution's public accountability. Several actors, including civil society, the prosecution services and bar associations, should participate in this evaluation.

**vi. Progressive Realisation**

The national action plan against racial discrimination should develop targeted, legally consistent and sufficiently progressive policies to secure the rights of individuals and groups facing racial discrimination. Moreover, the obligation of progressive realization of human rights implies that there should be no regression, by action or omission, to a lower level of enjoyment of rights from that which has already been achieved.

The national action plan against racial discrimination should not use "progressive realization" as a pretext to shelve full implementation. "Progressive realization of the right" is not an excuse to postpone implementation, but rather calls for immediate steps, as well as for developing a roadmap to implement it.

**vii. Rule of Law**

The rule of law is the backbone of the legal protection of human rights. The national action plan against racial discrimination should, consequently, underscore the importance of ensuring that human rights are protected under the rule of law. It should contribute to building and strengthening national structures that have a direct impact on the overall observance of human rights and the maintenance of the rule of law as the cornerstone of democracy and human rights protection.

We are also guided by the principles put forward by the European Commission in the recently published EU Anti-Racism Action Plan. The Commission has called on all EU Member States that do not have a current National Plan Against Racism to develop one before the end of 2022, and have suggested that the following principles be followed in the development of these Plans:

- following the policy areas set out in this action plan for the EU level, such as legislation to tackle racism, countering discrimination by law enforcement authorities or non-discrimination in education and training, employment, health and housing; be based on a comprehensive assessment of action needed at national level in all of the areas set out in this action plan;
- being tailored to the social, historical and cultural context and country specificities to address the most pressing needs;
- involving regional and local authorities, as well as civil society and equality bodies in their design, implementation and evaluation;
- including data collection and identifying indicators to measure progress;
- drawing on the practical guidance from the Office of the United Nations High Commissioner for Human Rights as well as the identified key elements and principles on how to develop such plans, [which we have outlined above].

## 1.6 Context

### 1.6.1 DEMOGRAPHIC CONTEXT

#### ETHNICITY

The Census<sup>4</sup> records information on 'ethnic or cultural background', birthplace, nationality, and religion. This gives us some information on groups affected by racism and racial discrimination, including minority ethnic Irish (Travellers, Jewish people, Muslims, and other minorities born or naturalised in Ireland, including People of African Descent and inter-country adoptees), and people from a migrant background.

In Census 2016, 163,000 (3.5%) people resident in Ireland reported their ethnic or cultural background as "Black" or "Asian", while 31,000 (0.7%) reported themselves to be a "White Irish Traveller" (though this is widely suspected to be an underestimate). However, 71,000 (1.5%) reported being of the category that includes "mixed background". Furthermore, 124,000 did not respond the ethnicity question on the Census form, all of which suggests the Census figures underestimate the minority ethnic population.

Due to the limitations of the Census categories, and due to a variety of barriers to participation and capturing accurate data, supplementary data is needed to get the full picture of the Traveller population, and the wider growth in the minority ethnic proportion of the population.

#### MIGRATION

The Central Statistics Office publishes population and migration estimates on an annual basis. Approximately 60,000 non-Irish nationals arrive each year, while approximately 30,000 leave. The largest contribution to net migration is from migrants with non-EU and non-UK nationalities. Approximately 30,000 non-EU and non-UK people arrived each year between 2018 and 2020, with approximately 10,000 departing the country. Hence, the difference of approximately 20,000 accounts for two-thirds of total net immigration.

The pattern has been relatively stable over the three years to 2020, but is very likely to have changed as a result of the pandemic, with slower flows in both directions likely, which we might reasonably be expected to result in an overall decline in net immigration during 2020.

### 1.6.2 LEGAL CONTEXT

There is provision for protection against racism in Ireland under specific legislation:

- The Equal Status Acts 2000-2018<sup>5</sup> prohibit discrimination in the provision of goods and services, accommodation and education on nine grounds: gender, marital status, family status, age, disability, sexual orientation, race, religion, and membership of the Traveller community.
- The Employment Equality Acts 1998-2015<sup>6</sup> prohibit discrimination in employment on the same grounds.
- The Prohibition of Incitement to Hatred Act 1989<sup>7</sup> (now under review) has provisions against racist hate speech.

4 Administered every five years by the Central Statistics Office, the most recent Census was taken in 2016. Census 2021 has been rescheduled to 2022 due to the COVID-19 pandemic.

5 Equal Status Act, 2000-2018, <http://www.irishstatutebook.ie/eli/2000/act/8/enacted/en/html> (12.11.2020).

6 Employment Equality Acts 1998-2015 <http://www.irishstatutebook.ie/eli/1998/act/21/enacted/en/html> (12.11.2020).

7 Prohibition of Incitement to Hatred Act, 1989, <http://www.irishstatutebook.ie/eli/1989/act/19/enacted/en/html> (12.11.2020).

- Under the Public Sector Equality and Human Rights Duty<sup>8</sup>, public bodies must, in the performance of their functions, have due regard for the need to eliminate discrimination.
- Article 40.1 of the Constitution<sup>9</sup> provides that ‘All citizens shall, as human persons, be held equal before the law.’<sup>10</sup>

Ireland is bound by the obligations of the International Convention for the Elimination of all forms of Racial Discrimination<sup>11</sup> (ICERD). This legally binding international human rights treaty requires all parties to it to pursue active policies to eliminate all forms of racial discrimination. CERD General Recommendation 30, made in 2004, underlines that the protections of the Convention apply to non-citizens.

European Union law also protects people from racism. The Charter of Fundamental Rights of the European Union<sup>12</sup> enshrines in primary EU Law a wide spectrum of fundamental rights enjoyed by EU citizens and residents, in particular Article 20 Equality before the law<sup>13</sup> and Article 21 Non-discrimination<sup>14</sup>. Relevant EU instruments include:

- The Racial Equality Directive,<sup>15</sup> which establishes a framework for combating discrimination and gives effect to the principle of equal treatment in the EU Member States. It operates alongside the Employment Equality Directive,<sup>16</sup> which prohibits discrimination in employment on a number of grounds, including religion or belief. Both are transposed into Irish law through the Equality Acts outlined above.
- The Victims’ Rights Directive,<sup>17</sup> which provides for a number of supports to victims, and is transposed in Ireland through the Criminal Justice (Victims of Crime) Act 2017.
- The Council Framework Decision<sup>18</sup> on combating racism and xenophobia by means of criminal law, which requires member states to criminalise the public incitement to violence or hatred, on grounds of race colour, religion, descent or national or ethnic origin (including online).

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- 8 Section 42 of the Irish Human Rights and Equality Commission Act 2014, <http://www.irishstatutebook.ie/eli/2014/act/25/section/42/enacted/en/html> (12.11.2020).
- 9 Article 40.1 All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function. <http://www.irishstatutebook.ie/eli/cons/en/html#part13>
- 10 The Committee notes the problematic nature of the reference to citizens in relation to fundamental rights under the Irish Constitution and the recommendation of CERD (2004) General Recommendation 30.
- 11 <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx> (12.11.2020), as signed by Ireland [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-2&chapter=4&clang=en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&clang=en#EndDec) (12.11.2020)
- 12 EU Charter of Fundamental Rights, became legally binding with the Treaty of Lisbon on 1 December 2009, <https://fra.europa.eu/en/eu-charter> (12.11.2020).
- 13 Article 20 – Everyone is equal before the law.
- 14 Article 21 – Non-discrimination: 1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic feature, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. 2. Within the scope of application of the Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited., <https://fra.europa.eu/en/eu-charter/article/21-non-discrimination> (12.11.2020)
- 15 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML> (12.11.2020).
- 16 Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078> (12.11.2020).
- 17 Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32012L0029&from=en> (12.11.2020).
- 18 Council Framework Decision 2008/913/JHA of 28 November 2008 on combating racism and xenophobia by means of criminal law.

### 1.6.3 POLICY CONTEXT

Our work is informed by, builds upon, and draws lessons from the implementation of current and recent policy interventions aimed at combating racism, and promoting the inclusion and integration of minorities. At the national level, these include the Migrant Integration Strategy 2017-2020 and the National Traveller and Roma Inclusion Strategy 2017-2021. We also take account of experiences of the development and implementation of Ireland's previous National Action Plan Against Racism 2005-2008. Some other national and sectoral strategies include objectives and actions aimed at increasing integration and inclusion and eliminating discrimination and are also relevant. For example, *Our Public Service 2020*, the national policy framework for development and innovation in Ireland's public service, includes a commitment to promote equality, diversity and inclusion across the public service. *An Garda Síochána adopted a Diversity and Integration Strategy 2019-2021*. *Sustainable, Inclusive and Empowered Communities: A Five Year Strategy to support the Community and Voluntary Sector in Ireland 2019-2024*, recognises the role that community organisations can play in the inclusion of marginalised groups. The *Action Plan to Expand Apprenticeship and Traineeship in Ireland 2016-2020*, has a focus on attracting less well represented groups into programmes, while the *National Plan for Equity of Access to Higher Education 2015-2019* includes ethnic minorities among its target groups.

Policy developments at the international level also inform our work. As noted in section 1.4 above, the European Union has recently published a new Anti-Racism Action Plan 2020-2025, in which it calls on all Member States that do not have a current Plan to develop one by the end of 2022.

In terms of specific actions to combat racism, the European Commission makes a number of recommendations that we will have regard to in the course of developing Ireland's Plan. These include:

- step up efforts to prevent discriminatory attitudes among law enforcement authorities and to boost the credibility of law enforcement work against hate crimes;
- map national responses to violent extremism and identify gaps and best practices in tackling it;
- actively address racial and ethnic stereotypes through the media, education, culture and sport; - improve the collection of data disaggregated by racial or ethnic origin;
- adopt national action plans against racism by the end of 2022; - ensure that civil society representatives and equality bodies are involved in the design, implementation and evaluation of national action plans against racism;
- adopt specific measures to avoid, or compensate for, disadvantages linked to discrimination on grounds of racial or ethnic origin where there is provision for protection;
- identify ways to promote duties to integrate equality considerations into the day-to-day work of public authorities.

The EU Plan also notes the importance of mobilising effort at the local level in order to ensure meaningful impact on the ground, and also of tailoring responses for different environments; for example, rural areas with low population densities may face different challenges to those experienced in large urban centres and responses should be tailored accordingly. The importance of engaging private sector actors in the design and delivery of initiatives is also noted.

#### 1.6.4 INTERNATIONAL MONITORING

We also have regard to the outcomes of recent examinations of Ireland by the *UN Committee on the Elimination of Racial Discrimination* (December 2019); the *European Commission against Racism and Intolerance* (June 2019), and the *Framework Convention for the Protection of National Minorities* (June 2019).

### 1.7 Focus on Action-Oriented Responses

There is substantial evidence for the existence of racism and racial discrimination in Ireland and this has been well documented in recent years. Numerous research studies, using both quantitative and qualitative methods, have found evidence that people with minority ethnicities experience discrimination and adverse outcomes across a wide range of domains.<sup>19</sup>

We intend to focus our energies on identifying practical and action-oriented responses to racism. Nonetheless, as the need for research and data gathering may emerge, an overview of existing evidence, together with recommendations on where further research is needed to better assess the scale and impact of racism, will form part of our Final Report.

Many jurisdictions and levels of government have developed strategies and plans to fight racism. Examination of a selection of these and consultation with experts from other jurisdictions is part of our work. We are focussing in particular on learning from best practice internationally, and exploring initiatives with wider applicability. It is easier to state that racism is a problem than it is to identify effective policy initiatives to reduce its prevalence and support its victims. But this is the space that the new Action Plan needs to occupy.

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<sup>19</sup> Recent examples include: *Hidden versus Revealed Attitudes: A List Experiment on Support for Minorities in Ireland*, IHREC/ESRI 2020; *Roma and Travellers in Six Countries*, FRA 2020; *Being Black in the EU*, FRA 2019; *Who Experiences Discrimination in Ireland?*, IHREC/ESRI 2017.

# 2

# Interim Recommendations and Priority Issues for Development of NAPAR

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## IN THIS CHAPTER

- 2.1 Interim Recommendations
- 2.2. Priority Issues for Consideration in Development of NAPAR

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## Section Two

# Interim Recommendations and Priority Issues for Development of NAPAR

To date we have identified specific areas of focus for our work, which are outlined below (2.2). However we have also identified three recommendations for urgent and immediate action.

## 2.1 Interim Recommendations

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### **INTERIM RECOMMENDATION ONE: REMOVE RESERVATION TO ARTICLE 4 OF CERD**

Ireland should withdraw the reservation/interpretative declaration made to Article 4 of CERD. This is in line with CERD Recommendation 10 of December 2019.<sup>20</sup> This was identified by the CERD as a paragraph of particular importance (CERD Recommendation 57) on which the State must report in its next periodic report. We believe action on this now would be timely in light of planned legislation on hate crime. It would represent an important indicator of a strengthened approach to tackling racism, and ensuring the protections the Article offers to victims of hate crime are applicable here.

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### **INTERIM RECOMMENDATION TWO: TAKE STEPS TO PUT IN PLACE ETHNIC EQUALITY MONITORING ACROSS ALL PUBLIC SERVICES**

It is often difficult to measure the extent to which people from minority ethnic and migrant backgrounds experience differential outcomes from the majority population. This is because institutions do not gather the data that would enable this analysis to be done. Where data is gathered, it is often not used. Arguably constituting a form of institutional racism in itself, this absence of data diminishes our ability to tackle both structural and institutional racism. Ethnic equality monitoring has the potential to address some of these problems. For example, in the context of the pandemic, gathering ethnic equality data would allow for proper monitoring and assessment of any differential impacts of health services and law enforcement measures during the pandemic response.

We recommend that a standardised ethnic identifier be adopted and rolled out across all routine administrative systems, state agencies and surveys. This is in line with CERD Recommendation 6 (December 2019). This would help to ensure timely availability of the disaggregated data essential for successful implementation of the NAPAR. As this initiative will take time to design and implement, we recommend work begin immediately on this.

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<sup>20</sup> Committee on the Elimination of Racial Discrimination Concluding observations on the combined fifth to ninth reports of Ireland. The Committee considered the combined fifth to ninth periodic reports of Ireland (CERD/C/IRL/5-9), submitted in one document, at its 2784th and 2785th meetings (see CERD/C/SR.2784 and 2785), held on 2 and 3 December 2019. At its 2796th meeting, held on 10 December 2019, it adopted the concluding observations.

### **INTERIM RECOMMENDATION THREE: REMOVE ALL BARRIERS TO ACCESSING SUPPORT FOR MIGRANT WOMEN EXPERIENCING GENDER-BASED VIOLENCE**

Minority women face an extra and therefore discriminatory burden of additional barriers in accessing supports for victims of Gender Based Violence (GBV). Migrant women whose status is dependent on their spouse, fear to report abuse for fear of losing their legal status. Access to refuges for women with certain immigration status can be problematic. While current policy allows for women in abusive relationships to apply for legal residence status independent of their abuser, the guidelines are at Ministerial discretion and are not on a statutory footing. Clear rules should be developed to ensure that no woman faces additional barriers, or risks jeopardising her status, when seeking refuge. This is in line with CERD Recommendation 39 (December 2019).

## **2.2. Priority Issues for Consideration in Development of NAPAR**

We have, to date, identified the following specific areas of focus for our work. We will likely identify others as we progress, including through dialogue with stakeholders.

### **CROSS-CUTTING AREAS**

- **Public Services**

There is evidence that public service users from ethnic minority and migrant backgrounds do not enjoy equal access to or outcomes from public services as their majority ethnic counterparts. Public service providers have a duty under section 42 of the Irish Human Rights and Equality Commission Act of 2014 to ensure not only that their practices do not discriminate, but that they actively promote equality and anti-discrimination.

- **Complaints Mechanisms/Forms of Redress**

Victims of racism frequently report that they do not make use of the complaint and redress mechanisms available to them. Many reasons are cited for this, including lack of confidence in the effectiveness of the mechanism; a wish to avoid being re-traumatised; and fear of retribution. These system failures amount to institutional racism, which facilitates the perpetuation of structural racism.

- **Information, Communications, Media and New Technologies**

This is a broad domain that covers traditional media, social media and technology and includes all issues relating to the intersection between Information Technology and racism. Key priorities that we have identified are: racism in social media; online hate content; and issues relating to artificial intelligence, such as bias in algorithms. The mass communications media, including the State Broadcaster, have an important role to play in combating racism and this will be reflected in the Plan.

- **Supports for Victims of Racism**

Racism can have the effect of intimidating minorities and making them reluctant to insist on their rights. It can also have detrimental psychological impacts on victims and the people around them. The Action Plan should encompass measures to support victims of racism, including in dealing with the psychological damage it inflicts. Supports for both inter-country adoptees and their parents; and mixed race people, and their parents, should be addressed in this context.

- **Equal Participation in Civil, Political, Economic, Social and Cultural Decision Making**

The absence of people of minority ethnicities in visible positions of power and influence in any society is one of the most salient manifestations of structural racism there is. The ethnic composition of Ireland's current cohort of decision makers and influencers is simply not reflective of the ethnic diversity of its population.

## **SPECIFIC AREAS OF PUBLIC POLICY**

- **Education**

Education, while it cannot on its own eliminate racism, is crucial for addressing it as well as being a key site for its reflection and reinforcement. It has historical, current and ongoing effects for minority ethnic groups reflected in their experiences of access, participation and outcomes. The engagement of the relevant departments and professional bodies is vital in mobilising the education sector to play an active part in combating racism.

- **Employment**

Tackling racism in the labour market needs to address labour market segregation; bias in recruitment; and racism in the workplace. Some specific barriers to full inclusion in the labour market may represent structural or institutional racism and need to be considered. The engagement of both unions and employers is vital in mobilising workers to play an active part in combating racism in the workplace and workplace training initiatives can be effective here.

- **Access to Justice**

Do minorities and migrants have unequal access to justice in Ireland? A comprehensive Action Plan Against Racism needs to address this question, both in the context of law enforcement and the adjudicative process. The extent of bias and institutional racism within the legal system as a whole needs to be explored and measures identified to address shortcomings.

- **Policing**

The adoption of a Diversity and Integration Strategy by An Garda Síochána in 2018 signalled a recognition by the force that change was needed to ensure that it could serve people from minority ethnic and migrant backgrounds effectively, appropriately and fairly. While this direction set by Garda Senior Management is welcome, there is often some distance between the vision set out in the Strategy and the experiences of day-to-day policing as related by ethnic minority people. Concerns about racial profiling in particular need to be addressed.

- **Hate Crime and Hate Speech**

Effective laws to combat hate crime and hate speech are an essential component of any Action Plan. Planned reforms in this area are welcome. Monitoring the use and impact of the new laws and making monitoring information available to the public will be important. With respect to hate speech in particular, measures to improve public awareness of what constitutes hate speech will be required to support the effectiveness of the reforms.

- **Accommodation**

Unequal access to accommodation is a form of structural racism. This has been evident during the COVID-19 pandemic, most clearly in relation to those reliant on state supports to meet their accommodation needs. In Ireland we see this impact particularly severely on members of the Traveller community where structural racism is evidenced by relevant agencies failure to draw down available funding to provide accommodation. People from other ethnic minority and migrant backgrounds are also affected. The new Action Plan needs to address these issues.

- **Health**

Ethnic minorities in Ireland experience health inequalities, both in terms of access to services and outcomes. The pandemic has provided further evidence of this. Evidence has emerged across Europe and North America that the pandemic is having a disproportionately severe impact on ethnic minorities, throwing global structural racism into sharp relief. Ireland is no exception. Here too, the pandemic is interacting with pre-existing inequalities, including those whose causes encompass racial discrimination. We need to explore insights gained from both pandemic and response to inform the new Action Plan.

Other areas identified for inclusion in National Action Plan Against Racism by the Durban Declaration and Programme of Action and by the ICERD are: the right to cultural expression, the right of access to services, political leadership, the far right and hate groups, and human rights and anti-racism education and awareness raising, both a formal and informal.

# 3

# Programme of Work

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## IN THIS CHAPTER

- 3.1. Work to Dates
- 3.2. Planned Programme of Work December 2020 to August 2021

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# Section Three

## Programme of Work

### 3.1 Work to Date

This section of the Report describes the work we have done to date and sets out our plans for the remainder of our term.

We have met 7 times in plenary session. We established a sub-committee (the Definition of Racism Sub-Committee) to develop a definition of racism to guide our work. This sub-committee met on 2 occasions and has completed its work. We established a second sub-committee (the Consultation Sub-Committee) to develop a consultation programme to inform this first phase of our work. This sub-committee met on 3 occasions and has completed its work.

We also established 2 sub-groups to lead work on specific themes for discussion at our plenary meetings. These were: Sub-Group for theme 3: Engaging organisations in the public, private and voluntary sectors in combating racist messages; and Sub-Group for theme 4: Online Racism, Hate Speech the Social Media/ Technology Sector and Broadcast media.

We have held 3 stakeholder consultations in this phase of our work. The purpose of these early consultations was to ask selected stakeholders what they believed should be the key areas of focus for our work.

A full list of all meetings and consultations held prior to the submission of this Interim Report is supplied at Appendix B to this Report. All meetings and consultations have been held online.

### 3.2 Planned Programme of Work December 2020 to August 2021

#### 3.2.1 METHODOLOGY

We acknowledge that it is a complex task to develop a National Action Plan Against Racism, and that the methodology associated with it needs to be capable of incorporating emerging issues through a flexible process. This complexity is a feature of large-scale public policy development in any sphere, though the nature of racism as a public policy problem is clearly also a factor. The literature on public policy and strategy development emphasises the importance of a systematic approach:

“[A]ll strategy involves setting priorities – being rigorous about what matters most, and directing energies to tasks which can be accomplished... To focus ...energies and get results governments need to pay systematic attention to:

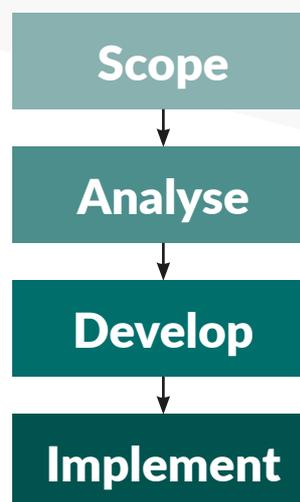
- **Purposes** – why they should act in the first place...
- **Environments** – where they are seeking to achieve their goals...
- **Directions** – what they want to achieve: the goals and outcomes that are desirable and achievable... These in turn define:
  - **Actions** – how they are to achieve their goals with detailed strategies, policies, laws and programmes...
  - **Learning** – systems for understanding not just which actions did or didn't work but also whether there's a need to rethink purposes, analyses and chosen directions.”<sup>21</sup>

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21 Geoff Mulgan *The Art of Public Strategy*, Oxford (2009) at p.4

With this in mind, we have adopted a clear methodology for the development of the Action Plan. The steps we propose in its preparation are as follows:

1. Define Racism for the purposes of the Action Plan
2. Overview of legislation
3. Overview of existing policies
4. Statistical Research
5. Pre-draft public consultation
6. Prepare public consultation report
7. Prepare Draft Action Plan
8. (Post-draft stakeholder consultation)
9. Finalise Action Plan
10. Prepare Implementation Plan



### 3.2.2 CONSULTATIONS

In accordance with our Terms of Reference, and our Guiding Principle of Participation and Inclusion, we intend to consult widely on the development of the National Action Plan Against Racism and the Plan we recommend to Government will be informed by the stakeholder views that we receive.

The participation of civil society stakeholders, social partners and private sector organisations is essential to the development of an effective Action Plan. The importance of government authorities and civil society actors coming together to tackle racism is clearly expressed in the new EU Action Plan Against Racism. In Ireland, many non-governmental organisations, trade unions, and other bodies have a long track-record of working to combat racism in its many forms. We want the Action Plan we develop to be informed by their experience.

Community engagement is essential to the success of any Action Plan Against Racism. We will hold dialogues with local communities as we develop the Plan, and will seek ways to ensure that it speaks to local concerns and mobilises action at the local level in support of greater inclusion.

We will also consult with Government Departments and Agencies as we develop the Action Plan. It is essential that the perspectives and experiences of public service providers, and public policymakers, are brought to our work. As mentioned earlier in the Report, we welcome the clear commitment in the Programme for Government to publish a new National Action Plan Against Racism. In light of this commitment, we anticipate good engagement and support from Government bodies for our work. We also hope to engage with elected representatives through the Joint Oireachtas Committee on Children, Equality, Disability and Integration.

We will hold these consultations from January to April 2021. They will take a variety of forms, including targeted and open consultation events (currently planned as online events due to the pandemic, though this will be kept under review); invitation to make written submissions; an online survey; and invitations to specific experts to address the Committee.

## **CONSULTATION THEMES**

We have so far drawn up the following list of consultation themes. This list will continue to be developed until our consultations are complete.

- Racism Online and in Social Media
- Racism in the Labour Market, public, private and voluntary sectors
- Racism in Public Service Delivery
- Racism in Education
- Supporting Victims of Racism
- Identifying Good Practice in Combating Racism
- Intersectionality, including Women and Racism; Racism and People with Disabilities; Racism and Sexual Orientation, etc.

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### **3.2.3 DRAFTING**

As the consultation programme draws to a close in April 2021, we will begin drafting the Anti-Racism Strategy and Action Plan. We plan to submit the completed Strategy and Action Plan to the Minister at the end of August 2021. We will also prepare a report on the consultations, which will be appended to the draft Strategy and Action Plan.

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### **3.2.4 IMPLEMENTATION**

Without effective implementation structures, for which the Plan requires political and institutional leadership, buy-in, resourcing and adequate structures, the National Anti-Racism Strategy and Action Plan will fail. We will include recommendations for implementation, monitoring and accountability in our proposals. We will also address the development of suitable indicators, that will enable measurement both of the implementation of the Action Plan (input and output indicators), and of progress towards the objectives of the Strategy (outcome indicators).

# 4

# Conclusion

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## Section Four

### Conclusion

In this Interim Report of the Anti-Racism Committee, we set out the context for our work, and the guiding principles we have adopted. These are informed by the human rights and equality principles of participation, non-discrimination, diversity and intersectionality. They acknowledge the indivisibility and interdependence of socio-economic rights and civil and political rights; as well as the need for transparency and accountability. Hence we are taking an inclusive approach to our work and look forward to the engagement of a broad range of stakeholders as we develop a new National Action Plan Against Racism for Ireland. We have outlined how we intend to proceed with the development of the Plan, setting out our methodology and approach to stakeholder consultation.

We describe the priority issues that we have identified as needing to be addressed in the new Plan, and also recommend a small number of immediate actions that we believe should be taken pending the adoption of a new National Action Plan Against Racism:

- Interim Recommendation One: Remove reservation to Article 4 of CERD;
- Interim Recommendation Two: Take steps to put in place ethnic equality monitoring across all public services;
- Interim Recommendation Three: Remove all barriers to accessing support for migrant women experiencing gender-based violence.

In closing this Report, we recall CERD Recommendation 14 (e) (December 2019) on 'ensuring the effective functioning of the Anti-Racism Committee with a comprehensive mandate and a sufficient budget.'<sup>22</sup> We are grateful for the secretarial support provided by the Department of Children, Equality, Disability, Integration and Youth, and underline the importance of sufficient resources being made available to support the next phase of our work.

Finally, we wish to emphasise that we remain flexible and open-minded as we enter the next phase of our work. In developing a new National Action Plan Against Racism for recommendation to Government, we will be informed by our consultations and our engagement with those who are already working in this area.

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<sup>22</sup> The Committee considered the combined fifth to ninth periodic reports of Ireland (CERD/C/IRL/5-9), submitted in one document, at its 2784th and 2785th meetings (see CERD/C/SR.2784 and 2785), held on 2 and 3 December 2019. At its 2796th meeting, held on 10 December 2019, it adopted the present concluding observations.

# Appendices

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## IN THIS CHAPTER

Appendix A Members of the Anti-Racism Committee  
Appendix B Meetings and Consultations to Date

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# Appendices

## Appendix A

### Members of the Anti-Racism Committee

- Professor Caroline Fennell (Chair)
- Ms. Shamsun Nahar Chowdury
- Ms. Meadhbh Costello
- Dr. Anastasia Crickley
- Mr. Tom Enright
- Dr. Sindy Joyce
- Ms. Úna-Minh Kavanagh
- Ms. Patricia King
- Ms. Nana Nubi
- Professor Ciarán Ó Catháin
- Mr. Shane O'Curry
- Mr. Bashir Otukoya
- Mr. Linus (Boidu) Sayeh
- Professor Eugenia Siapera
- Mr. Owen Patrick Ward

# Appendix B

## Meetings and Consultations to Date

### MEETINGS:

- 18 June 2020 (introductory meeting)
- 28 August 2020
- 16 September 2020
- 8 October 2020
- 5 November 2020
- 19 November 2020
- 26 November 2020

- Consultation 4, 19 November 2020: People of African Descent and Muslim Organisations
  - Africa Centre
  - AkiDwA
  - Association of Mixed Race Irish
  - Immigrant Council of Ireland
  - Movement of Asylum Seekers in Ireland

### CONSULTATIONS:

- Consultation 1, 8 October 2020: Irish Human Rights and Equality Commission
- Consultation 2, 8 October 2020: Invited academic experts:
  - Professor Gavan Titley
  - Dr Jennifer Schweppe
  - Dr Amanda Haynes
  - Professor Roja Fazaeli
- Consultation 3, 5 November 2020: National Traveller Organisations
  - Irish Traveller Movement
  - National Traveller Women's Forum
  - Minceirs Whiden
  - Pavee Point

### WRITTEN SUBMISSIONS:

A selection of Civil Society Organisations were invited to make written submissions in this phase of our work. We received submissions from:

- AkiDwA
- Association of Mixed Race Irish
- Donegal Travellers Project
- eYogi Gurukul
- Irish Traveller Movement
- Pavee Point

