



CRI (97)55

## **European Commission Against Racism and Intolerance**

### **First report on Ireland**

Adopted on September 1997

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## **INTRODUCTION**

The European Commission against Racism and Intolerance (ECRI) was set up in 1994, at the instigation of the first Summit meeting of Heads of State and Government of the member States of Council of Europe, to combat the growing problems of racism, xenophobia, anti-Semitism and intolerance threatening human rights and democratic values in Europe. The members of ECRI were chosen for their recognised expertise in questions relating to racism and intolerance.

The task given to ECRI was to: review member States' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance and their effectiveness; propose further action at local, national and European level; formulate general policy recommendations to member States; and to study international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

One aspect of the activities developed by ECRI to fulfil its terms of reference is its country-by-country approach, which involves carrying out an analysis of the situation in each of the member States in order to provide governments with helpful and concrete proposals.

The procedure adopted for the preparation of country-specific reports can be summarised thus:

- a. The preliminary collection of information as well as the preparation of the texts of the preliminary draft reports are carried out in small working groups of ECRI. Preliminary sources of information used are wide-ranging, including, inter alia, replies provided by governments to a questionnaire sent out by ECRI, input from the relevant national members of ECRI, information on national legislation collected for ECRI by the Swiss Institute of Comparative Law<sup>1</sup>, information from international and national non-governmental organisations, various publications and the media.
- b. ECRI examines and discusses the preliminary draft report on each country in plenary session and adopts a draft report.
- c. The report is sent to the relevant government for a process of confidential dialogue conducted through a government-appointed national liaison officer. The draft country report is re-examined and possibly revised in the light of the comments provided by the latter.
- d. The report is then adopted in its final form by ECRI in plenary session, and transmitted through the Committee of Ministers of the Council of Europe, to the government of the country in question. Two months after this transmission, the report is made public, unless the government of the country concerned expressly requests that it is not made public.

The first series of eleven ECRI's country-specific reports<sup>2</sup> were transmitted to the governments of the countries concerned in July 1997. The reports are accordingly now made public. The following report contains ECRI's analysis and proposals concerning Ireland.

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<sup>1</sup> The report prepared by the Swiss Institute (ref: CRI (97) 38), covering relevant legislation in member States of the Council of Europe is available from ECRI's Secretariat.

<sup>2</sup> Reports on Belgium, the Czech Republic, Finland, Greece, Hungary, Iceland, Ireland, Lithuania, Luxembourg, Malta and Poland.

It should be noted that ECRI is carrying out its country-by-country procedure by preparing reports for all forty member States of the Council of Europe. This first series of eleven reports, for which the procedure was completed by June 1997, will be followed by other series of reports on the remaining member States of the Council of Europe. The order in which the reports are produced has no significance other than that these are the first reports to be completed.

The publication of this report represents the start of an on-going and active process of exchange between ECRI and the authorities of each of the member States, in order to identify solutions to the problems of racism and intolerance facing Europe. ECRI will also welcome the input of non-governmental organisations and other parties working in this field to ensure that its work is as constructive and helpful as possible.

# **REPORT ON IRELAND<sup>3</sup>**

## ***Introduction***

Ireland is a fairly homogeneous country as regards the ethnic origin, religion and culture of its population. It has traditionally been a country of emigration rather than immigration, with few non-citizens present in the country and a small proportion of ethnic and racial minority groups.

In comparison to other countries, the known number of cases of racial violence, discrimination and harassment is rather low. However, intolerance exists to some extent in Ireland, even if overt manifestations are still uncommon. One particular group facing serious problems of discrimination is the Travelling Community.

Some of the key areas identified by ECRI as meriting particular attention include:

- the need to review and strengthen existing legislation to ensure that it protects all groups at risk;
- the need to develop policies and actions to deal with the growing numbers of refugees and asylum-seekers;
- measures in the field of education.

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<sup>3</sup> Note: Any development subsequent to 7 June 1996 is not covered by the following analysis and is not taken into account in the conclusions and proposals

# **I LEGAL ASPECTS<sup>4</sup>**

## **A. International Legal Instruments**

1. Although Ireland is a signatory to the UN Convention of the Elimination of All Forms of Racial Discrimination, it has not yet ratified this Convention, although it intends to do so once new legislation protecting the rights of minority groups has been passed. It is hoped that this ratification, including acceptance of Article 14 of CERD, will be effected without delay.
2. It is considered that Ireland should ratify the ILO Convention concerning Discrimination in Respect of Employment and Occupation, the UNESCO Convention against Discrimination in Education and the Framework Convention for the Protection of National Minorities. Ratification of the European Charter for Regional or Minority Languages should be considered.
3. International conventions are not directly applicable and as a result, legislative changes have been identified as necessary and provisions of international conventions have been taken into account in drafting new laws. It is hoped that a comprehensive review of existing legislation will be undertaken to ensure that all necessary changes are made to enable ratification of the relevant international instruments referred to above.

## **B. Constitutional provisions**

4. The Constitution of Ireland guarantees in Article 40.1 equality to all citizens as human beings before the law and this is understood to protect citizens from discrimination based on factors such as ethnic, racial, social or religious background. In Article 44.2, the Constitution guarantees to every citizen freedom of conscience and the freedom to practise their religion, as well as freedom from discrimination on the ground of religious profession, belief or status.

As regards the rights of non-citizens in Ireland, the position is less clear. Many of the rights referred to in the Constitution are guaranteed for citizens, however existing jurisprudence has applied many of these rights to non-citizens.

Moreover, the extent to which these Constitutional guarantees may be relied upon otherwise than against the State has been the subject of some uncertainty, and it is clear that not all cases of private discrimination would be held to be unlawful.

5. ECRI considers that consideration should be given to the possibility of adopting a constitutional amendment expressly ensuring equality and other human rights for all individuals under Irish jurisdiction, not just for Irish citizens. Although some distinctions may be necessary under certain circumstances, such distinctions should only be made when justified in a democratic society and prescribed by law.

## **C. Civil and Administrative Law Provisions**

6. ECRI welcomes the proposed new anti-discrimination legislation to cover employment, access to goods, services and accommodation and other areas, and hopes that this

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<sup>4</sup> A full overview of the legislation existing in Ireland in the field of combating racism and intolerance is provided in the publication CRI (96) 2 rev. prepared for ECRI by the Swiss Institute of Comparative Law (see bibliography)

legislation will be introduced as soon as possible and will establish mechanisms to redress racially discriminatory behaviour.

#### **D. Specialised bodies**

7. Up until now, there has been very limited use of the legislation which exists in the field of protection against racism, for example incitement to racial hatred. This fact reinforces the government's decision to strengthen the present legal framework through the proposed new anti-discrimination legislation. ECRI feels that steps should be taken to monitor levels of discrimination and cases brought under relevant legislation, and that further measures should be taken as necessary to ensure that legislation is effectively dealing with the actual situation in Ireland. The new legislation should contain appropriate monitoring and enforcement machinery. This task might be entrusted to a specialised body. Such a body should have an independent status and be provided with sufficient resources to fulfil its task.

## **II POLICY ASPECTS**

#### **E. Reception and status of non-citizens**

8. Although, in the past, few asylum-seekers and refugees have been accepted into Ireland, the numbers of applicants are gradually increasing. Until recently, this area was regulated by an administrative arrangement with the UNHCR. However, a Refugee Bill was passed by the Dáil on 28 February 1996. In the wake of this legislation, a clear-cut and objective policy should be further developed and the guidelines as approved by the Minister of Justice implemented concerning procedures for dealing with requests for refugee or asylum-seeker status. Such policy should be made widely-known both to officials dealing with such requests and to the general public. There should also be measures to ensure that such individuals receive fair and equal treatment while waiting for a decision to be taken on their request. In this respect, special training for officials dealing with such matters should be continued and widened.

#### **F. Education and training**

9. The Department of Education has undertaken a number of initiatives directed at promoting education against racism and intolerance. However, human rights and international obligations are not taught in a systematic fashion, and relevant text books in this field do not exist. Models of anti-racist and multicultural education do exist and inspiration might be drawn from initiatives and experience already gathered elsewhere in Europe. Furthermore, education programmes on preventing for instance religious intolerance might be useful in improving community understanding and fostering cross-community discussion.
10. It is consequently felt that educative measures against racism and intolerance should be improved and developed, and that in particular school curricula should include teaching about discrimination and intolerance as a compulsory subject.
11. Furthermore, teachers should receive special training and guidelines concerning teaching about human rights, discrimination and racism.
12. Since the majority of schools in Ireland are denominational (and most of these are Catholic), it is important that the government pay particular attention to the needs of students of minority faiths, since pupils may in practice be obliged to attend Catholic

schools. This may particularly be the case outside urban areas. Measures should therefore be considered to provide increased opportunity for alternative religious instruction in schools for pupils of other religions than the Catholic one.

**G. Other areas**

**- *Measures aimed at the Travelling Community***

13. In 1993, the Minister for Equality and Law Reform established the Task Force on the Travelling Community, which analysed nomadism in Ireland and explored ways whereby mutual understanding and respect can be developed between the Travelling Community and the settled population. This is a very welcome initiative, which might constitute an example of good practice in dealing with Travellers or similar communities in other countries.
14. ECRI notes that the Government has adopted a series of measures to resolve the accommodation needs of the Travelling Community with a view to providing appropriate accommodation, and it is hoped that these measures will be rapidly implemented. This action should be conducted in close co-operation with the Travelling Community itself.
15. The participation of members of the Travelling Community in public life could be enhanced. At present, a certain number of legal and administrative requirements, such as electoral registration, are predicated on the concept of a permanent address or ordinary residence, and members of the Travelling Community may thus find themselves excluded from public affairs, including the electoral procedure. Electoral law provides a choice in relation to place of registration where a person is ordinarily resident in more than one location. The Department of the Environment's current advice to registration authorities is that all travellers qualified to vote should be included in the register and that, at least, those travellers who regularly occupy the same site for considerable periods of the year should be registered. It is intended to ask registration authorities to review their procedures with a view to ensuring that all eligible travellers in their area are registered as electors, provided that each elector is registered only once in the register and subject to, in appropriate cases, giving them the choice of where they are registered.

**General data as supplied by national authorities**

**For reasons of consistency, ECRI, in its CBC reports, has, in this box, reproduced statistical data only from the replies of Governments to ECRI's questionnaire. The questionnaire was sent to the Irish government on 13 July 1994.**

**ECRI accepts no responsibility for the data below.**

92.7% of the population born in Ireland; 1.1% born outside the European Union

Travellers: approx. 4 000 families; 4 600 children of travellers in pre- or primary school

91.6 % of the population Roman Catholic

Population of Ireland: 3.53 million. This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography)

## **BIBLIOGRAPHY**

This bibliography lists the main sources consulted during the examination of the situation in Ireland: it does not cover all the various sources of information (media, contacts within the country, national NGOs etc) which were utilised.

1. Reply supplied to the ECRI questionnaire by the Irish authorities
2. CRI (94) 2 and Addendum: Situation in the member States of the Council of Europe concerning the issues under examination by the European Commission against Racism and Intolerance: Working papers submitted by the members of ECRI, Council of Europe document
3. Recent Demographic Developments in Europe, Council of Europe Press, 1994
4. "Political extremism and the threat to democracy in Europe", Institute of Jewish Affairs
5. Trends in International Migration, Annual Report 1993, OECD, 1994
6. CRI (95) 2 rev.: Legal measures to combat racism and intolerance in the member States of the Council of Europe, by the Swiss Institute of Comparative Law of Lausanne, Council of Europe publication
7. Antisemitism World Report 1995, Institute of Jewish Affairs publication
8. "Country reports on Human Rights Practices for 1994", US Department of State, 1995
9. "Racism and Intolerance in Ireland": report of the National Youth Council of Ireland
10. Report of the Task Force on the Travelling Community