



# **ECRI REPORT ON IRELAND**

## **(fourth monitoring cycle)**



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## FOREWORD

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

**The following report was drawn up by ECRI under its own and full responsibility. It covers the situation up to 21 June 2012 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.**



## SUMMARY

**Since the publication of ECRI's third report on Ireland on 24 May 2007, progress has been made in a number of fields covered by that report.**

The Equality Tribunal continues to act as an independent state body set up to investigate or act as a mediator in respect of complaints of discrimination, while the Equality Authority continues to be a key player in the application of and dissemination of information on equality legislation.

The Office of the Press Ombudsman and the Press Council were established in 2007 to provide a new system of independent regulation for the printed media; a new voluntary Code of Practice for Newspapers and Magazines, prohibiting inter alia the publication of material intended or likely to cause grave offence or stir up hatred on the basis of race, religion, nationality, colour, ethnic origin, membership of the travelling community, gender, sexual orientation, marital status, disability, illness, was adopted in 2007. Ireland has a good system for registering racist criminal offences.

The National Employment Rights Authority (NERA) was established in 2007 to monitor and enforce respect of employment rights. It has to be noted that, in the framework of the ongoing reform of the State's employment rights and industrial relations structures, there are plans for the merger of NERA with other employment rights bodies: the Labour Relations Commission, the Equality Tribunal, the Employment Appeals Tribunal and the Labour Court. Since 2008 new primary schools were established, for the first time in Irish history, under the direct patronage of the Government through the Vocational Education Committee. They are open to children of all faiths and of none and strive to be fully inclusive. Another private scheme, run by the human rights and equality-based "Educate together" movement, resulted in the creation of a network of 60 multi-denominational primary schools nationwide.

In February 2011, legislation was adopted to give further effect in Irish law to Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status, particularly with respect to the conduct of personal interviews, the provision of interpreters and the treatment of unaccompanied minors in the asylum system.

**ECRI welcomes these positive developments in Ireland, However, despite the progress achieved, some issues continue to give rise to concern.**

The legislation does not proscribe racial profiling by the *Garda Síochána* (Police) and other law enforcement agencies, although the High Court in 2011 struck down as unconstitutional legislation requiring non-Irish nationals to produce identity documents upon demand of law enforcement personnel, which had a discriminatory effect on the basis of individuals' colour. The National Consultative Committee on Racism and Interculturalism (NCCRI) was closed down in December 2008 and its functions were transferred to the Office of the Minister for Integration. The expertise gathered by the NCCRI, the bridge between authorities and the civil society and the unique reporting system about racist incidents were lost.

The National Action Plan Against Racism (2005-2008) adopted as a follow-up to the United Nations World Conference Against Racism held in 2001, has not been renewed.

Travellers continue to face significant challenges in relation to adequate accommodation and there is still a shortage of available spaces for Traveller caravans and mobile homes. Pupils of immigrant background constitute 10% of primary school children and 12% of post-primary school children. Of those children for whom English is not their first language, 70% to 75% may require extra English language assistance. Ireland is not very well prepared to help new immigrants enter the school system and

the authorities have recently withdrawn funding from the Integrate Ireland Language and Training centres which help adult immigrants and refugees to acquire language skills.

Ireland does not have a single protection determination procedure for persons in need of a protection status. Asylum seekers may not engage in paid employment in Ireland.

The Social Welfare and Pensions (No.2) Act was amended in 2009 as regards the Habitual Residence Condition concerning individuals seeking asylum or a protection status. Under the amendment, asylum seekers or those awaiting a decision on leave to remain (i.e. failed asylum seekers) cannot be considered as “habitually resident”. Consequently, they may not receive many social benefits

**In this report, ECRI requests that the Irish authorities take further action in a number of areas; in this context, it makes a series of recommendations, including the following.**

The authorities should monitor the application of the Immigration Acts 2003 and 2004, in particular as regards allegations of racial profiling. They should consider adopting legislation prohibiting any form of racial profiling. The authorities should, without neglecting the need to rationalise the various procedures for dealing with complaints concerning employment, ensure in the process of merging the employment rights and industrial relations structures that there is an independent authority (other than the courts) competent to deal with cases of discrimination in the provision of goods and services.\*

The merger of the Human Rights Commission and the Equality Authority should result in the setting up of a body that will comply with the Paris Principles and ECRI’s GPR Nos. 2 and 7 in terms of independence and having a comprehensive monitoring function in the field of discrimination on grounds of ethnic origin, colour, citizenship, religion and language.

Further efforts are required to involve local authorities in the implementation of the National Traveller/Roma Integration Strategy pertaining to housing to meet the needs of the Travellers. In this connection, the national authorities should envisage introducing measures binding on local authorities and raising awareness among the general public of Traveller accommodation rights and promote respect thereof. Efforts should be intensified to ensure that the education system guarantees all children of immigrant origin equality of opportunity in access to education, including higher education.

The authorities should draft and adopt as soon as possible the Immigration, Residence and Protection Bill so as to *inter alia* (a) put in place one procedure for dealing with applications for asylum and subsidiary protection; (b) introduce a long-term residence status (granting same rights as those enjoyed by nationals in the field of university education); (c) introduce procedures for registration of non-national minors under 16.\* The authorities should ensure foreseeability in the application of the habitual residence requirement by setting out clear rules and publishing the decisions of the authorities dealing with appeals against negative decisions based on the requirement in question.\*

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\* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.



## FINDINGS AND RECOMMENDATIONS

### I. Existence and Application of Legal Provisions

#### International legal instruments

1. In its third report on Ireland, ECRI strongly recommended that the Irish authorities ratify Protocol No. 12 to the European Convention on Human Rights (ECHR). It also recommended that they ratify the Convention on the Participation of Foreigners in Public Life at Local Level and the European Convention on Nationality. It encouraged the Irish authorities to ratify the European Convention on the Legal Status of Migrant Workers, the European Charter for Regional or Minority Languages and the UNESCO Convention against Discrimination in Education.
2. Furthermore, ECRI recommended that the Irish authorities ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
3. Since ECRI's third report, the Irish authorities have not signed the Convention on the Participation of Foreigners in Public Life at Local Level, the European Charter for Regional or Minority Languages, the European Convention on Nationality, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>1</sup>, the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems and the UNESCO Convention Against Discrimination in Education.
4. In addition, ECRI notes that there have been no developments on the ratification of Protocol No. 12 to the ECHR. In this context it has to be noted that Ireland recognises the competence of the Committee on the Elimination of Racial Discrimination (CERD) to receive and consider communications from individuals alleging violations by the State of rights set out in the International Convention on the Elimination of All Forms of Racial Discrimination. Ireland is also a party to the Optional Protocol to the International Covenant on Civil and Political Rights; consequently, any person under Irish jurisdiction can submit a communication to the Human Rights Committee relating to the principles of non-discrimination and equality before the law. In ECRI's view, ratifying Protocol No. 12 to the ECHR should thus be seen as a further step presenting no problems in principle. ECRI also notes that the effect of Protocol No. 12 is not to add to the number of non-discrimination grounds within the jurisdiction of the European Court of Human Rights but to broaden the scope of the prohibition of discrimination beyond the enjoyment of the rights and freedoms laid down in the ECHR.
5. ECRI strongly recommends that Ireland ratify Protocol No. 12 to the European Convention on Human Rights.
6. According to the authorities, Ireland is considering ratification of the European Convention on Nationality.

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<sup>1</sup>The Irish authorities did not support the recommendation given within the Universal Periodic Review that Ireland should become a party to this convention.

7. All resident Irish citizens have the right to vote at all elections and referenda. In addition, it has to be noted that British citizens are entitled to vote at the Dáil (Lower House of Parliament) elections, European elections and local government elections; other EU citizens may vote at European and local government elections; and non-EU citizens may vote at local government elections. Against this positive background, ECRI regrets to note that the authorities do not envisage at present to ratify the European Convention for the Participation of Foreigners in Public Life at Local Level. ECRI considers that by ratifying this Convention, Ireland would significantly strengthen the legal guarantees extended to foreign nationals as regards their participation in public life and would send a strong signal of commitment to diversity and tolerance.
8. ECRI notes that the status of the Irish language is enshrined in Article 8 of the Irish Constitution, which recognises it as the national language and the first official language of the State. Article 8 also recognises the English language as the second official language. In these circumstances, the Irish Government considers that it would be inappropriate to view the Irish language as having the legal status of either a regional or minority language and it is not proposed therefore to ratify the European Charter for Regional or Minority Languages in respect of the Irish language.
9. The authorities have informed ECRI that Ireland is committed, in general, to the principle of equality of educational opportunity contained in the UNESCO Convention against Discrimination in Education. However, at present, there are no immediate plans for Ireland to ratify the Convention.
10. ECRI reiterates its recommendation that Ireland ratifies the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Participation of Foreigners in Public Life at Local Level, the UNESCO Convention against Discrimination in Education, the European Convention on Nationality and the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

### **Constitutional provisions**

11. In its third report on Ireland, ECRI called on the Irish authorities to ensure that, in accordance with its General Policy Recommendation No.7 on national legislation to combat racism and racial discrimination, the Constitution provides for: 1) the principle of equal treatment; 2) the State's commitment to promoting equality; and 3) the right of individuals to be free from discrimination on grounds such as race, colour, language, religion, nationality or national or ethnic origin. ECRI further recommended that the authorities ensure that any exceptions to the principle of equal treatment be established by law and that it not constitute discrimination.
12. In its second and third report on Ireland, ECRI noted that the Constitution guaranteed in its Article 40 paragraph 1 equality to all citizens before the law. It thus reiterated the recommendation initially made in its first report that the Constitution be expressly amended to ensure equality and protect the human rights of all individuals under Irish jurisdiction.
13. With regard to the issue of ensuring the protection of the human rights of all persons under Irish jurisdiction, the Constitution remains unchanged. In the framework of the third monitoring cycle, the Irish authorities had informed ECRI that in some cases, the Supreme Court had applied Article 40 paragraph 1 of the Constitution to every individual under Irish jurisdiction and in others just to citizens (for example, in immigration related cases).

14. ECRI notes in this context that the legislation does not proscribe racial profiling by the Garda Síochána (Police) and other law enforcement agencies. ECRI welcomes the fact that the Irish High Court struck down in March 2011 the legislation obliging non-Irish nationals to produce identity documents upon demand of law enforcement personnel, but urges the Irish authorities to ensure that any new legislation in this area does not lead to discrimination based upon an individual's colour or ethnic origin.
15. Although the authorities have assured ECRI that statute law, in particular equality law, applies to everyone in Ireland, ECRI notes that there is an exception to the general prohibition of discrimination under the Equality Acts<sup>2</sup> in relation to the recruitment of employees as domestic workers to provide certain services in the home, although once employed these workers must be treated in accordance with the equality legislation. ECRI believes that this exception (which the authorities describe as "qualified and limited") requires to be monitored carefully and interpreted narrowly so as to limit any potential for abuse. For this reason, ECRI considers that the inclusion of a provision enshrining the principle of equal treatment for all in the Constitution still merits consideration.
16. ECRI considers that the forthcoming Constitutional Convention the aim of which is to review the current Constitution of Ireland (which dates from 1937) and to present a new draft within 12 months, is an ideal and unique opportunity to include the principle of equal treatment for all in the revised text. The Constitutional Convention, according to the government proposal currently under consideration, is to consist of 100 members, including a chairperson; 66 will be ordinary citizens selected at random from the electoral register and 33 members of the Oireachtas.<sup>3</sup> ECRI further considers that the composition of the Constitutional Convention should take into account the diversity of Irish society, not only as regards political views, but also gender and social status. It is of particular importance that the Traveller community be represented at the Convention.
17. ECRI recommends again that the authorities strengthen the protection provided by the Irish Constitution against racism and racial discrimination.<sup>4</sup>

### **Criminal law provisions**

18. In its third report, ECRI recommended that the Irish authorities complete their review of the Prohibition of Incitement to Hatred Act 1989 as soon as possible. ECRI recommended in this regard that the authorities draw their inspiration from its General Policy Recommendation No.7.
19. In its third report, ECRI underscored that, pending the review of the Prohibition of Incitement to Hatred Act 1989, the Irish authorities should ensure that the existing relevant criminal law provisions are implemented more vigorously against those who commit racially motivated crimes.
20. Any activity that incites racial hatred is a criminal offence in Irish law. It would be a matter for the court in any particular set of circumstances to decide whether the dissemination of ideas based upon racial superiority or hatred was an offence. ECRI notes that that the Department of Justice, Equality and Law Reform reviewed in 2010 the legislation in force. It considers that the legislation

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<sup>2</sup> The Equality Act 2004 amended the Employment Equality Act 1998, the Equal Status Acts 2000 to 2003 and the Pensions Acts 1990 to 2004. The amended Acts together with the relevant parts of the Equality Act are cited as Employment Equality Acts, Equal Status Acts and Pension Acts.

<sup>3</sup> The Oireachtas is the name of the National Parliament of Ireland.

<sup>4</sup> In line with the definitions set out in ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, all references to these phenomena include grounds such as "race", colour, language, religion, nationality, or national or ethnic origin.

protecting minority groups from incitement to hatred is sufficiently robust. Furthermore, following a detailed examination of Irish legislation, the authorities were confident that Ireland was in compliance with the Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law by virtue of the provisions in its existing criminal law - Prohibition of Incitement to Hatred Act 1989 and public order legislation.<sup>5</sup>

21. According to the European Union Agency for Fundamental Rights (FRA), Ireland has a good system for registering racist criminal offences;<sup>6</sup> a fact which was already acknowledged in ECRI's third report. According to the official statistics, 128 racist incidents were reported in 2009 and 122 were reported in 2010.<sup>7</sup> These statistics further indicate that the most common types of racist incidents are minor assault, public order offences and criminal damage. Since 2008, 45 cases have been brought under the Prohibition of Incitement to Hatred Act 1989.<sup>8</sup>
22. FRA analysed in 2009 the experiences of discrimination in the everyday life of immigrant and ethnic minority groups in all EU member States. For Ireland, a sample of Sub-Saharan Africans was surveyed.<sup>9</sup> ECRI notes that 26% of the respondents considered that, in the previous 12 months, they had fallen victim to racially motivated crime of the following type: serious harassment, threat or assault. Such a high estimate leads ECRI to consider that the official statistics do not reflect correctly the reality of the number of racially motivated offences in Ireland.
23. ECRI strongly encourages the Irish authorities to improve and to supplement the existing arrangements for collecting data on racist incidents and the follow-up given to them by the criminal justice system. In this respect, it draws the authorities' attention to the section of its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing which concerns the role of the police in combating racist offences and monitoring racist incidents.
24. In its third report, ECRI reiterated its recommendation that the Irish authorities include in the criminal legislation provisions which allow for the racist motivation of a criminal offence to be considered as an aggravating circumstance at sentencing and that they envisage providing that racist offences be defined as specific offences. It recommends that they draw their inspiration from its General Policy Recommendation No. 7 when making these amendments.
25. ECRI notes that there have been no changes to the criminal legislation and that there are no provisions in Irish criminal law defining common offences of a racist or xenophobic nature as specific offences, nor is there any provision which provides for the racist motivation of a crime to be considered as an aggravating circumstance during the sentencing stage of a trial. The courts have the power to take any element, including racist motivation, into consideration. The fact that this

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<sup>5</sup> Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia, Office for the Promotion of Migrant Integration, Department of Justice, Equality and Law Reform, <http://www.integration.ie/website/omi/omiwebv6.nsf/page/Racism-eudevelopmentsEUCouncilFrameworkDecisionCombatingRacism-en>.

<sup>6</sup> FRA Annual Report, 2010, p. 121, <http://fra.europa.eu/fraWebsite/attachments/annual-report-2011-chapter6.pdf>.

<sup>7</sup> Reported Racist Crime, Office for the Promotion of Migrant Integration, Department of Justice and Equality, <http://www.integration.ie/website/omi/omiwebv6.nsf/page/statistics-RacistIncidentsstatisticscrime-en>.

<sup>8</sup> Hate Crimes in the OSCE Region – Incidents and Responses, Annual Report For 2010, November 2011, p. 26.

<sup>9</sup> European Union Minorities and Discrimination Survey (EU-MIDIS) - survey results, FRA, 2009.

power is discretionary and limited has been recognised by various stakeholders as a problem.

26. Racist acts may be combated under the Criminal Justice (Public Order) Act 1994, the Non-Fatal Offences against the Person Act 1997 and the Criminal Damage Act 1991. According to various sources, the racist motivation was not consistently taken into account by judges when sentencing.<sup>10</sup> The authorities have informed ECRI that they were, however, advised not to introduce aggravated offences as the convictions may be more difficult to obtain because the act and motive have to be proven.
27. ECRI recommends that the Irish authorities assess the application of the criminal law provisions against racism in order to identify, including notably from recent case-law, any gaps that need closing or any improvements or clarifications that might be required, so that changes can then be made if necessary. In this respect, ECRI draws the authorities' attention to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination which contains guidelines in this area, including on making racist motivation an aggravating circumstance.

### **Civil and administrative law provisions**

28. In its third report on Ireland, ECRI recommended that the Irish authorities expand the scope of the Equality Act to include governmental actions such as national policy strategies, departmental policies and decisions on the allocation of funding in relation to areas such as health, education and housing. ECRI also recommended that the Irish authorities consider extending the anti-discrimination provision concerning persons employed in the home to the recruitment process.
29. In its third report ECRI further strongly recommended that the Irish authorities take measures to raise awareness among ethnic minority groups of the anti-discrimination legislation and the mechanisms for invoking it. It recommended that the Irish authorities involve NGOs, lawyers and other interested parties such as employers and employment agencies in this process.
30. In its third report on Ireland, ECRI urged the Irish authorities to ensure that the remedies available under the equality legislation are effective and sufficiently dissuasive. It recommended in this regard that the maximum compensation awarded under the Equal Status Acts be substantially increased.
31. Since the third report on Ireland the following acts modified the civil law legislation relating to discrimination: Disability Act 2005, designed to advance participation by people with disabilities in everyday life, Protection of Employment Act 2007 and Unfair Dismissal Act 2007 in the employment protection field, the Civil Law (Miscellaneous Provisions) Act 2008, seeking to implement the EU Gender Goods and Services Directive,<sup>11</sup> and Civil Partnership Act 2010, giving same-sex couples rights and responsibilities similar to civil marriage.
32. However, according to NGOs, no effort has been made by the State to expand the scope of the Equality Act. Moreover, there is lack of clarity as to the circumstances in which the Act extends to asylum seekers; civil society groups have called for its extension to include An Garda Síochána and immigration authorities.

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<sup>10</sup> CERD report on Ireland, 4 April 2011, p. 4, § 19.

<sup>11</sup> Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between women and men in the access to and supply of goods and services.

33. According to the authorities, a qualified and limited exception is provided to the general obligation under the Equality Act concerning the recruitment of an employee to provide certain services in a domestic context (see also § 15). Four cumulative conditions must be met before this exception applies which allow for a significant element of individualised assessment.
34. ECRI recommends that the Irish Government reviews, in consultation with NGOs, the Equality Act of 2004, drawing inspiration from its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

### **Anti-discrimination bodies and policies**

#### *- Equality Tribunal*

35. In its third report, ECRI urged the Irish authorities to ensure that the Equality Tribunal is adequately staffed in order to enable it to clear the current backlog of cases and render its decisions or mediate settlements in a timely manner. ECRI further recommended that the authorities ensure that members of minority groups are represented in the Tribunal's staff.
36. ECRI also recommended that the Irish authorities ensure that the decision to relocate the Equality Tribunal in Portarlington does not result in members of minority groups having difficulties in accessing this body. ECRI further recommended that measures be taken to ensure that the relocation does not lead to the loss of a valuable institutional memory and that the authorities consider the possibility of offering special incentives to that end. Finally, ECRI recommended that the authorities examine the possibility of keeping an effective presence in Dublin to facilitate access to the Equality Tribunal for minority groups who live in that area.
37. ECRI notes that the Equality Tribunal continues to act as an independent state body set up to investigate or act as a mediator in respect of complaints of discrimination. It deals with all complaints of discrimination in employment and access to goods and services, disposal of property and certain aspects of education which come under the Equality Act. The Tribunal may also investigate complaints under the Pensions Act where an employer has failed to comply with the principle of equal treatment in relation to occupational benefit or pensions' schemes.
38. ECRI has been informed that the employment rights and industrial relations structures and procedures are currently being reviewed in the framework of the Workplace Relations Reform. It is proposed that the responsibility for the Equality Tribunal will be given to the Minister for Jobs, Enterprise and Innovation and that, on the establishment of the new Workplace Relations Commission (WRC), the Tribunal will be disestablished. Responsibility for dealing with first instance complaints<sup>12</sup> under the Employment Equality Acts and the Equal Status Acts will lie with the WRC (with the exception of complaints in respect of registered clubs and licensed premises which will continue to be referred to the District Court at first instance with an appeal from the determination of that Court to the Circuit Court)<sup>13</sup>. Furthermore, it has been agreed that policy responsibility and

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<sup>12</sup> Appeals under the Employment Equality Acts will be heard by the Labour Court, while appeals under the Equal Status Acts will be heard by the Circuit Court.

<sup>13</sup> Under the new structures provision is made for Adjudicators who will be officers of the WRC. The WRC Adjudication Officers will comprise a diverse panel of adjudicators which will include experienced industrial relations and HR practitioners, employment lawyers and civil servants with appropriate skills/qualifications. This will include the current cohort of Rights Commissioners and Equality Officers (which will have served in the Equality Tribunal) along with an externally recruited panel of suitably qualified and experienced

responsibility for equality legislation will remain with the Department of Justice and Equality.

39. ECRI recommends that the authorities, without neglecting the need to rationalise the various procedures for dealing with complaints concerning employment, ensure that there is an independent authority (other than the courts) competent to deal with all cases of discrimination.

- *Equality Authority*

40. In its third report, ECRI recommended that the Irish authorities continue to support the work of the Equality Authority by providing it with the necessary human and financial resources to carry out its current workload, to provide information about its work to members of ethnic minority groups and to expand where necessary.

41. ECRI notes that the Equality Authority continues to be a key player in the implementation and dissemination of information on equality legislation. It is tasked with providing information and advice to any person who feels that he or she has been discriminated against on any of the grounds covered in the equality legislation, in an employment or non-employment area.

42. During the year 2010 the Equality Authority opened 116 new case-files. By year end, 199 case-files had been closed. 15 applications for substantial assistance were considered with 15 applications granted. Most of the case-files were processed under the Employment Equality Acts, with the ground of disability and gender (both 22.7%) most often invoked. In the majority of the cases processed under the Equal Status Acts (47.6%) concerned discrimination on the ground of disability. Most of the cases under the Equal Status Acts concerned the education sector (24.5%).

43. ECRI welcomes the information on the awareness raising initiatives taken by the Equality Authority such as the conference “Mainstreaming Equality: Promoting Equality and Accommodating Diversity in Further Education, Training and Labour Market Programmes” in November 2010. The Equality Authority also produced guidelines on school development planning, provided training for schools on combating homophobic bullying and developed a module on stereotyping for the second level curriculum.

44. ECRI regrets to note that as part of the Government’s response to the economic crisis, there have been severe cuts to the budget of the Equality Authority. In 2008 the budget was reduced by 43% to € 3,333,000 which led to concerns that further cutback could curtail its work,<sup>14</sup> led to the resignation of the CEO of the Authority and a campaign by an alliance of NGOs against the cuts. The budget was reduced also in 2010 to € 3,200,000 and in 2011 to € 3,057,000.

45. ECRI notes that the authorities are planning to merge the Equality Authority and Irish Human Rights Commission in one Irish Human Rights and Equality Commission. The aim of this merger is to create a streamlined body capable, in difficult economic circumstances, of protecting and promoting human rights and equality (see related comment in § 53).

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persons. The external panel will be established following an open, public and transparent competition which will be administered by the Public Appointments Service. Candidates will be assessed against clearly identified criteria and will be required to demonstrate that they possess a range of necessary core competencies. The Adjudicators will be provided with comprehensive on-going training in the areas of adjudication skills, employment and administrative law. At the same time, in their day to day work, they will be supported by the WRC Registration Service which will be headed up by an experienced lawyer.

<sup>14</sup> Press release, Budget 2009 may render Equality Authority unable to carry out the full range of its core functions, 11 November 2008.

- *Human Rights Commission*

46. In its third report ECRI recommended that the Irish authorities allocate sufficient human and financial resources to the Human Rights Commission in order to enable it to, inter alia, continue providing its input on issues pertaining to racism and racial discrimination. ECRI also recommended that the authorities ensure that members of minority groups are included among this body's staff.
47. ECRI notes that the Human Rights Commission works to promote and protect a broad range of human rights. Its strategic priorities are set out in the Strategic Plan (2007-2011) Promoting & Protecting Human Rights in Ireland. Under Strategic Goal 4 the Commission strives to address issues affecting communities and diverse ethnic and minority groups while identifying economic, structural or related factors that could give rise to the marginalisation of these or other groups.
48. ECRI has been informed that the Commission advises on the compatibility of legislation with the rights protected by the Constitution of Ireland and by international treaties to which Ireland is a party. In March 2008 it prepared its Observations to the Immigration Residence and Protection Bill 2008 proposing recommendations to strengthen, protect and uphold the human rights of the persons to which the provisions of the 2008 Bill apply. The Commission also engages in human rights education and conducts inquiries into alleged violations of human rights. It provides shadow reports to UN treaty bodies including CERD.
49. ECRI welcomes the active role played by the Commission acting as amicus curiae before courts. In 2009, the Commission intervened in case E.D. v Director of Public Prosecutions challenging the Immigration Act 2004, which requires foreign nationals to produce a valid passport or another equivalent document on demand of an Immigration Officer or member of An Garda Síochána or to give a satisfactory explanation for not doing so. In 2010 the Commission appeared in five cases addressing a variety of human rights concerns including criminal legal aid, data protection, the criminal law on insanity, criminal charges for immigration offences and housing rights.
50. It is regrettable that due to the current economic crisis, the Commission's budget was significantly cut. According to the Commission's Annual Report, its "financial situation remains bleak". Following the 32% reduction in grant in aid in 2009 to € 1,596,000 the figure was further reduced to € 1,523,000 in 2010.
51. ECRI notes that in 2010 the Commission received 464 communications from persons or organisations which is approximately the same level as in the last three years. However, it represents a 36% increase compared to 2007. The statistics do not show how many communications concerned discrimination issues.
52. ECRI notes that the administrative position of the Human Rights Commission has been a subject of discussion for a number of years now. In July 2010, the Commission was administratively linked to the then Department of Community, Equality and Gaeltacht Affairs. The Council of Europe Human Rights Commissioner recommended in November 2011 detaching the Commission from the executive and submitting it to direct parliamentary control, including as regards its budget.<sup>15</sup> It has to be noted that the Commission itself would prefer to be administratively linked with the Parliament to enhance its compliance with the Paris Principles relating to the Status of national Institutions.<sup>16</sup>

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<sup>15</sup> CommDH (2011)27, 15 September 2011, p. 14, § 44.

<sup>16</sup> Irish Human Rights Commission Submission to CERD, November 2010, p. 8.



53. ECRI notes that in October 2011 the Minister for Justice and Equality announced the appointment of a Working Group to advise him on the establishment of a new and enhanced Irish Human Rights and Equality Commission (IHREC). The principal reason behind the merger is to avoid overlaps between the Irish Human Rights Commission and the Equality Authority in the current economic crisis. The objective is to set up a streamlined body able to champion human rights and equality effectively, efficiently and cohesively.
54. The purpose of the IHREC would be to protect and promote human rights and equality, to encourage the development of a culture of respect for human rights, equality and intercultural understanding in Ireland, to work towards the elimination of human rights abuses and discrimination and other prohibited conduct, while respecting diversity and the freedom and dignity of the individual and, in that regard, to provide practical assistance to persons to help them vindicate their rights. The new commission should directly report to the Parliament and follow the Paris Principles.<sup>17</sup>
55. ECRI recommends that the authorities make sure that the merger of the Human Rights Commission and the Equality Authority will result in the setting up of a body that will comply with the Paris Principles and ECRI's GPR Nos. 2 and 7 in terms of independence and having a comprehensive monitoring function in the field of discrimination on grounds of ethnic origin, colour, citizenship, religion and language (with data from the police, the criminal justice system, the tribunals and courts, local authorities and NGOs).
56. ECRI recommends that, notwithstanding the current economic difficulties, the authorities ensure that sufficient financial and human resources are available to the new body to allow it to fulfil its terms of reference.
- *National Consultative Committee on Racism and Interculturalism*
57. In its third report, ECRI recommended that the Irish authorities provide more funding to the National Consultative Committee on Racism and Interculturalism (NCCRI) to enable it to open more local offices. ECRI also encouraged the Irish authorities to continue taking into account the NCCRI's recommendations on issues pertaining to racism and racial discrimination and recommends that they take into consideration its submission regarding the Scheme for an Immigration, Residence and Protection Bill.
58. ECRI notes that the NCCRI was established in 1998 as an independent expert body focusing on racism and interculturalism. In 2001 the NCCRI established a procedure for reporting racist incidents. NCCRI also provided trainings for government and conducted major research projects. ECRI regrets to observe that due to savings in public expenditure the NCCRI was closed down in December 2008 and its functions were subsumed under the Office of the Minister for Integration. It is particularly regrettable that the expertise, the bridge between authorities and the civil society and the unique reporting system were lost.
59. ECRI recommends that the reporting procedure and the monitoring mechanism established by the NCCRI is continued by the body established by the merger of the Human Rights Commission and the Equality Authority.

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<sup>17</sup> Press release, Government to establish a new enhanced Human Rights and Equality Commission, 9 September 2011.

- *Action plans against racism*

60. In its third report, ECRI encouraged the Irish authorities to continue implementing the National Action Plan Against Racism. In this regard, it recommended that they provide sufficient funding to the bodies whose task is to implement the objectives set out therein and that a monitoring and evaluation system be established.
61. ECRI notes that the National Action Plan Against Racism, adopted in 2005 as a follow-up to the United Nations World Conference Against Racism held in 2001, has not been renewed.
62. ECRI notes with satisfaction that at the local level, the Galway City Council and other voluntary and community organisations published the Galway City Anti-racism Strategy “Towards a City of Equals 2005-2008”. In doing so Galway was the first Irish city to adopt an anti-racism strategy. On completion of this strategy, the municipal authorities decided in 2008 to embark on a follow-up strategy to make Galway a “City of Equals” based on five “pillars”, namely promoting the city, living together, delivering services, rejecting racism and building an “intercultural economy”.
63. ECRI recommends that the authorities encourage other municipalities to develop anti-racism strategies using the expertise and experience of Galway; such strategies should be developed throughout the State.

## **II. Public Discourse and Media**

64. In its third report on Ireland ECRI recommended that, while fully respecting the principle of freedom of expression and editorial independence, the authorities encourage fairness when issues pertaining to ethnic minority groups, asylum seekers, refugees and immigrant communities are discussed by the media.
65. ECRI welcomes the establishment in 2007 of the Office of the Press Ombudsman and the Press Council on the initiative of the press industry. They provide a new system of independent regulation for the printed media. The Press Council decides on appeals from decisions of the Press Ombudsman and may also decide on any significant or complex case which has been referred to it by the Press Ombudsman. The Press Ombudsman investigates and adjudicates complaints under a new voluntary Code of Practice for Newspapers and Magazines which the press industry signed up to in 2007. The Press Ombudsman in the first instance attempts to resolve the matter by making direct contact with the editor of the publication concerned. If conciliation is not possible, the Ombudsman examines the case and makes a decision.
66. ECRI notes that principle 8 of the Code of Practice provides that: “Newspapers and magazines shall not publish material intended or likely to cause grave offence or stir up hatred against an individual or group on the basis of their race, religion, nationality, colour, ethnic origin, membership of the travelling community, gender, sexual orientation, marital status, disability, illness or age.”
67. In 2008, the first year of operation of the Press Ombudsman, Principle 8 of the Code of Practice was invoked by applicants in 74 complaints. In 2010, the last year for which figures are available, Principle 8 was invoked in 36 cases.
68. In 2008 a conference “Professional Integrity, Facing the Challenges” was held under the 2008 European Year of Intercultural Dialogue and was hosted by Cleraun University Centre. The theme of one module was “Reporting on Ethnic Minorities, Islam, Ireland North & South”.

69. ECRI also notes that the Broadcasting Act 2009 consolidated the corpus of broadcasting legislation in Ireland and revised the law relating to broadcasting services and content generally. The Act established the Broadcasting Authority of Ireland as the regulator of broadcasting content. It is of particular importance that the Broadcasting Authority developed a range of codes governing programme and advertising content on radio and television under which the programme material shall not support or condone discrimination against any person or section of the community, in particular on the basis of age, gender, marital status, membership of the Traveller community, family status, sexual orientation, disability, race or religion.

70. ECRI recommends that the authorities evaluate whether the new voluntary Code of Practice for Newspapers and Magazines constitutes an effective means of combating racist and xenophobic discourse in the media and invites them to encourage the press industry to strengthen it if necessary.

71. ECRI also invites the authorities to support any initiatives taken by the media to pursue awareness raising activities on human rights in general and on issues related to racism and racial discrimination in particular.

### **III. Discrimination in Various Fields of Life**

72. ECRI notes that a survey published by the Central Statistics Office (CSO) of Ireland in July 2011 showed that one in eight people in Ireland over the age of 18 experienced some form of discrimination in the two years prior to the fourth quarter of 2010.<sup>18</sup> The highest rates of discrimination reported were from people of non-white ethnic background, unemployed people, non-Irish nationals and people of non-Catholic religion. Persons with a disability were more likely to experience discrimination compared with persons without a disability. However, civil society representatives pointed out that, of those who received bad treatment, most did not make a formal complaint. ECRI considers that racist incidents are under-reported in Ireland.

#### **Employment**

73. In its third report on Ireland, ECRI encouraged the Irish authorities to continue raising awareness of the necessity of combating racism and racial discrimination in the work place. It recommended in this regard that migrant workers and ethnic minorities be provided with information on their rights and the avenues for redress such as the Equality Tribunal, the Labour Court and the Employment Appeals Tribunal. ECRI also recommended that minority and migrant-led organisations be consulted and included in any awareness-raising initiatives.

74. In its third report ECRI also recommended that the implementation of the new Employment Permits Act be monitored to ensure that employee mobility was respected and to combat any abuse and/or discrimination against migrant and ethnic minority workers. ECRI further recommended that labour inspectors collect disaggregated data by, inter alia, ethnicity, nationality and work permit status on complaints received.

75. ECRI further recommended that measures be taken to provide the necessary tools to assist migrants in their integration into the labour market and society, by for example ensuring that they receive free language lessons and that their prior qualifications, skills and experience are taken into consideration by employers.

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<sup>18</sup> Quarterly National Household Survey Equality, Quarter 4 2010, CSO.

76. ECRI notes that the protection of migrant domestic workers is identical to that of Irish citizens who work as domestic workers. ECRI notes further that the Employment Permit Act 2006 includes additional protection for migrant workers in a number of key areas.
77. ECRI welcomes the establishment in 2007 of the National Employment Rights Authority (NERA) under the aegis of the Department of Enterprise, Trade and Employment. Among other responsibilities, NERA inspectors have the power to inspect an employer's records and interview and require information from any relevant person. Where a breach of employment rights has been identified, NERA may seek compliance with the legislation and rectification of the breach. This includes redress for the employees concerned and payment of any arrears due where the contract of employment is valid and enforceable.
78. NERA concluded 7,164 employer inspections and dealt with 121,435 helpline calls in 2010. This was a decrease of 19% by comparison to the very high level of calls dealt with in 2009 (150,485) and contrasts with a 24% increase in calls in 2009 and 32% in 2008. The NERA website contains information on employment rights in 13 languages and the authority regularly participates in national and local conferences, exhibitions and seminars.
79. ECRI notes that in 2008 the first systematic baseline study "Immigrants at Work" which examined labour market experiences of migrants in Ireland was published. It investigated both objective labour market outcomes, such as occupational status and wages, and respondents' own subjective assessment of their experiences. The report established that migrants to Ireland fared less well than Irish nationals in the Irish labour market across a range of dimensions - in terms of unemployment level, of access to privileged occupations in the occupational structure and of experiences of discrimination at work and in looking for work. The report also highlighted specific and higher levels of disadvantage for Black people. English language skills were also identified in the report as an important factor in determining the quality of the migrants' experience.<sup>19</sup>
80. Discrimination in recruitment was also investigated in the study "Discrimination in Recruitment: Evidence from a Field Experiment" by McGinnity and others released in 2008. The field experiment directly compared employers' responses to job applications from candidates who were identical on all relevant characteristics other than their ethnic or national origin. The key finding of this study was that job applicants with Irish names are over twice as likely to be invited to an interview as candidates with identifiably non-Irish names, even though both submitted equivalent CVs. This finding was consistent across the three occupations tested – lower administration, lower accountancy and retail sales positions – and across different sectors of the Irish labour market.
81. ECRI welcomes the publication by the Public Appointments Service in July 2009 of another study which examined discrimination in recruitment. It took into account the experience of job seekers from a range of minority ethnic groups seeking employment. The research identified particular challenges that the vulnerable groups had encountered, including language barriers, poor information among immigrants regarding the operation of the labour market, lack of awareness of the employment rights and agencies, experience of racism and discrimination or problems of qualifications recognition.

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<sup>19</sup> Immigrants at Work - Ethnicity and Nationality in the Irish Labour Market, O'Connell and McGinnity, 2008.

82. ECRI notes that the high level of discrimination at workplace was also found in a recent MIDIS study conducted by FRA. Sub-Saharan Africans are among the top ten groups in EU member States experiencing the highest levels of discrimination at work. Half of the respondents claimed to have been discriminated against in general, and one in four when at work (26%).<sup>20</sup> These findings are consistent with the survey published by the Central Statistics Office (CSO) in July 2011 showing that 27% of people surveyed experienced discrimination in the workplace.<sup>21</sup>
83. ECRI notes that in 2011 the authorities proposed reform of the State's employment rights and industrial relations structures, centred on the proposed merger of five employment rights bodies: the Labour Relations Commission, the Equality Tribunal, NERA, the Employment Appeals Tribunal and the Labour Court.
84. The National Qualifications Authority only just started tackling the fact that non-EU qualifications are regularly downgraded or not recognised. The latest Economic and Social Research Institute (ESRI) report also calls for a better implementation of common standards for the recognition of qualifications obtained abroad, especially for qualifications from outside the EU.<sup>22</sup>
85. ECRI recommends that the authorities continue to monitor the situation and step up their efforts to combat direct and indirect racial discrimination in employment in cooperation with the key partners in this area and in particular the trade unions and employers organisations.

## Housing

86. In its third report on Ireland, ECRI recommended that the authorities continue ensuring better Traveller access to adequate accommodation. To that end, it called on the authorities to continue implementing the recommendations made by the National Traveller Accommodation Consultative Committee regarding all issues pertaining to Traveller accommodation.
87. ECRI also strongly recommended that the implementation of the Housing (Miscellaneous Provisions) Act 2002 be closely monitored to ensure that Travellers and especially vulnerable members of this group such as women and children are not placed in a difficult situation. It further recommended that measures be taken to ensure that this legislation be reviewed and amended where necessary to ensure its conformity with international human rights standards.
88. In general, ECRI welcomes the efforts undertaken by the authorities to tackle the discrimination against Travellers, and specific measures to improve Travellers access to healthcare, education, housing and employment.
89. Moreover, ECRI notes that, in 2011, in the EU framework for National Roma Integration Strategies up to 2020, Ireland adopted a National Traveller/Roma Integration Strategy aiming inter alia to develop, in consultation with local public authorities, community and other bodies, Traveller accommodation programmes containing annual targets and monitored through annual progress reports by the Department of Environment, Community and Local Government and the National Traveller Accommodation Consultative Committee (NTACC).

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<sup>20</sup> European Union Minorities and Discrimination Survey (EU-MIDIS) - survey results, FRA, 2009, p. 10.

<sup>21</sup> Quarterly National Household Survey Equality Quarter 4 2010, CSO.

<sup>22</sup> Migrants, minorities, mismatch? Skill mismatch among migrants and ethnic minorities in Europe, ESRI, October 2011.

90. However, in spite of various initiatives, programmes and financial schemes developed in recent years, Travellers continue to face significant challenges in relation to adequate accommodation. According to the 2010 All Ireland Traveller Health Study, carried out by the School of Public Health, Physiotherapy, and Population Science at the University College in Dublin and commissioned by the Ministry of Health and Children, over 73% of Travellers lived in a house, while 18% in a trailer/mobile home or a caravan. 55% of those who lived in a mobile home or a caravan were stationed on a halting site, 24% on an unofficial site and further 7% on a transient site. According to NTACC, the number of families living on halting sites has declined each year since 2003 with 991 families living on such sites in 2010. ECRI notes that, according to a number of sources, including the figures provided by the NTACC, while the situation with regard to the availability of halting sites has improved in recent years, there is still a shortage of available spaces for Traveller caravans and mobile homes.
91. According to the All-Ireland Traveller Health Study, a significant number of Traveller families living in group housing schemes and sites reported lack of footpaths, public lighting, fire hydrants and other amenities. It is particularly disturbing that 7,6% of the families have no access to running water. ECRI regrets to note, that while the 1998 Traveller Accommodation Act placed an obligation on local authorities to produce multi-annual Traveller accommodation programmes, with the aim of improving the rate of provision of accommodation for Travellers, in practice many local authorities failed to provide adequate accommodation for Travellers. It is particularly disturbing that resistance from local residents, resorting in some cases to physical destruction of new halting sites or homes, coupled with lack of political will on the part of local authorities and lack of incentives and sanctions for non-implementation of the Act, hamper significantly the pace of improvement of Traveller accommodation.
92. ECRI strongly recommends that the authorities step up their efforts to involve local authorities in the implementation of the parts of the National Traveller/Roma Integration Strategy pertaining to housing to meet the needs of the Travellers. In this connection, ECRI encourages the national authorities to envisage introducing measures binding on local authorities and to raise awareness among the general public of Traveller housing rights and promote respect thereof.

## **Health**

93. In its third report on Ireland, ECRI recommended that a preliminary assessment of the impact of the National Traveller Health Strategy be carried out and the conclusions reached therein be taken into account during the All-Ireland National Health Study. ECRI further recommended that the authorities ensure that the study being carried out regarding Traveller health needs closely involve Traveller organisations and include the gender dimension.
94. ECRI welcomes the publication in September 2010 of the All Ireland Traveller Health Study. The study, which followed the recommendations of the 2002 Traveller Health Strategy, identified problems and provided an evidence base to help develop policies to resolve the outstanding issues. In this context, ECRI notes that the Health Service Executive (HSE) has established a National Traveller Health Advisory Forum, which comprises representation of HSE personnel together with Traveller Health Unit and Traveller representation. It is also welcome that the HSE National Intercultural Health Strategy 2007-2012 is being implemented and this work incorporates health issues and priorities relevant to Roma, Travellers and asylum seekers. Furthermore, the HSE is pursuing actions in relation to Ethnic Equality Monitoring with a related Key Performance Indicator included in Supplementary Reports for the first time - and expected to be collected in an incremental way from this time onwards. Against

this positive background, ECRI regrets to note that, in spite of significant investment in the area of Traveller health, the findings contained in the report do not show marked improvement in life expectancy in the Traveller community, particularly among Traveller men.

95. ECRI strongly encourages the Irish authorities to pursue their efforts to reduce inequalities with regard to health status and access to health care in Ireland and to monitor the impact of these measures on the Traveller community from the point of view of its members' state of health and access to health care, so as to adapt these measures and enhance their effectiveness if necessary.

## Education

96. In its third report on Ireland, ECRI recommended that the authorities establish a consistent system of data collection to assess minority pupils' performance in education and establish the necessary policies in this area.

97. ECRI notes that approximately 10% of primary school children and 12% of post-primary school children in Ireland come from a migrant background. Of those children for whom English is not their first language, 70-75% may require extra English language assistance. As a response to this fact the Government had funded Integrate Ireland Language and Training (IILT) to provide intensive English language courses for adult immigrants and refugees and to assist schools with language teaching material. ECRI regrets to note however that in July 2008, the Government withdrew funding from the IILT centres and the responsibility for provision of English language programmes for refugees transferred to the Vocational Education Committee. This was criticised by students, NGOs and teachers' unions as a severe setback. Due to economic circumstances another programme, "English as an Additional Language", has been cut down since 2008. According to Migrant Integration Policy Index (MIPEX),<sup>23</sup> Ireland is not very well prepared to help new immigrants enter the school system.

98. In September 2010, a national Intercultural Education Strategy was launched with the aim of ensuring that "inclusion and integration within an intercultural learning environment becomes the norm". The strategy operates on a five-year timeline (2010-2015) and contains ten key components and five high-level goals of intercultural education.

99. ECRI strongly encourages the Irish authorities to continue and intensify their efforts to ensure that no children suffer disadvantage in the school system due to inequalities in their linguistic skills in English, and recommends that they draw inspiration in this regard from its General Policy Recommendation No. 10.

100. ECRI strongly recommends that the Irish authorities step up the provision of training programmes to teachers and other school staff, in accordance with its General Policy Recommendation No. 10, in order to enhance their understanding of a variety of cultures and equip them to work effectively in increasingly diverse classrooms, including strengthening their capacity to teach English as a second language to children with a different mother tongue.

101. In its third report ECRI urged the Irish authorities to promote the establishment of multid denominational or non-denominational schools and adopt the necessary legislation to that end. The authorities should also ensure that the current opt-out system in denominational schools is implemented in a manner which does not make pupils feel singled out.

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<sup>23</sup> MIPEX III, British Council and Migration Policy Group, February 2011.

102. ECRI notes that at primary school level, 96% of schools are under the patronage (i.e. responsibility and ownership) of the Catholic Church, whereas many newcomer groups have a more diverse religious profile than the majority population. Whereas it is commendable that the vast majority of such schools accept children of all faiths, or lack thereof, without the obligation for such children to participate in Catholic religious instruction and rites, ECRI finds that in some cases where the demand exceeds the availability of places, schools may introduce admission schemes based not only on academic performance, but also on filiation links with the school based on siblings attendance, which is understandable, and parents' attendance, which is difficult to comprehend. A preferential admission policy favouring children whose parents attended the particular school can have indirect discriminatory effects on children of immigrant background, or from other disadvantaged groups like Travellers, whether they are Catholic or not.
103. ECRI welcomes the establishment since 2008 of five new primary schools, first in County Dublin and since in other locations which will be under the direct patronage of the State through the proposed patronage of the Vocational Education Committees (awaiting legislative provision). They are open to children of all faiths and of none and strive to be fully inclusive. ECRI further welcomes the initiative of Educate Together, a human rights and equality-based school movement, which has established since 2008 a network of 60 multi-denominational primary schools nationwide. Educate Together has also recently been approved as patron and co-patron of two second level schools to be established in 2013 and 2014.
104. The authorities announced in 2011 the establishment of a Forum on Patronage and Pluralism in the Primary Sector. It advises the authorities on how it can best be ensured that the education system provides a sufficiently diverse number and range of primary schools catering for all religions and none. Since then a number of public working sessions were convened to tackle these issues and the Forum received submissions from over 200 stakeholders. ECRI notes with satisfaction that the Report of the Advisory Group to the Forum on Patronage and Pluralism in the Primary Sector was published in April 2012 and that the authorities announced the immediate commencement of a process for the divesting of patronage of primary schools in 44 areas of stable population. It is also noted that there is to be a public consultation process on the findings and recommendations in the Advisory Group report with regard to promoting more inclusiveness in schools, particularly in schools where transfer of patronage is not an option. ECRI welcomes the information that following the consultation process, the findings and recommendations in this area and the submissions received will be considered in drafting a White Paper.
105. ECRI recommends that the Irish authorities pursue and step up their efforts to ensure that the education system guarantees all children of immigrant origin equality of opportunity in access to education, including higher education.

#### **IV. The Situation of Non-Nationals**

##### **Refugees and Asylum Seekers**

106. In its third report on Ireland, ECRI encouraged the Irish authorities to continue providing training to persons working with asylum seekers. It recommended in this regard that a permanent mechanism offering them initial and on-going training on refugee law and issues pertaining to racism, racial discrimination, cultural diversity and gender awareness be established.



107. ECRI further strongly recommended that the Irish authorities ensure that proposals made by NGOs and civil society concerning the Heads of the Scheme for an Immigration, Residence and Protection Bill dealing with asylum seekers and refugees are taken into consideration. ECRI also strongly recommended that the authorities ensure that the subsequent Bill takes into consideration existing international standards and includes provisions against discrimination based on, inter alia, race, colour, language, religion, nationality or national or ethnic origin.
108. ECRI notes that in February 2011, the Minister for Justice and Law Reform promulgated the European Communities (Asylum Procedures) Regulations 2011 and the Refugee Act 1996 (Asylum Procedures) Regulations 2011. These regulations give further effect to Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status in Irish law, particularly with respect to the conduct of personal interviews, the provision of interpreters and the treatment of unaccompanied minors in the asylum system.
109. ECRI notes that whereas the number of asylum applications submitted in the years 2000 – 2002 exceeded 10,000 per year, since then the number of applications has been declining each year, with 1939 persons lodging such applications in 2010. In 2010 most claims for asylum have been submitted by Nigerian, Pakistani and Chinese nationals.
110. With regard to processing times of asylum applications, in 2011 the average processing time for prioritised cases was 30 working days from the date of application and for non-prioritised cases approximately 12 weeks from the date of application until the first decision<sup>24</sup>. According to the authorities, some cases take significantly longer to complete due to, for example, medical reasons, non-availability of interpreters or because of judicial review proceedings.
111. ECRI shares the concerns expressed by civil society concerning the lengthy asylum procedure. It is important to note in this context that Ireland does not have a single protection determination procedure. Under the current arrangements, persons in need of subsidiary protection must first exhaust the refugee status determination process, prior to making an application for subsidiary protection, and only after, in case of a refusal, ask for discretionary leave to remain (on the territory of the State). ECRI welcomes the information, according to which, under the proposed Immigration, Residence and Protection Bill, asylum seekers' applications for international protection and subsidiary protection will be dealt within a single procedure. The Bill will also introduce a long-term residence status (granting same rights as those enjoyed by nationals in the field of university education) and procedures for registration of non-national minors under 16.
112. ECRI recommends that the authorities draft and adopt as soon as possible the Immigration, Residence and Protection Bill so as to (inter alia) put in place one procedure for dealing with applications for asylum and subsidiary protection, introduce a long-term residence status (granting same rights as those enjoyed by nationals in the field of university education) and introduce procedures for registration of non-national minors under 16.
113. In its third report on Ireland, ECRI reiterated its recommendation that the Irish authorities consider enabling asylum seekers to engage in paid employment and recommends that the allowance provided to asylum seekers be equality and poverty proofed. ECRI also encouraged the authorities in their harmonisation of

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<sup>24</sup> The time for processing appeals is not included. During 2011, the average processing time for all applications, from receipt to final decision was approximately eight months.

the management of the direct provision system and their review of the complaints procedure.

114. The Reception and Integration Agency (RIA) was established in 2001 to manage the operation of the direct provision and dispersal of asylum seekers. RIA's main responsibilities include the accommodation of asylum seekers in centres while their applications for asylum are processed and the coordination of the provision of services to them. Under this system, approximately 6,107 asylum seekers were living in 52 accommodation centres ("direct provision centres") spread across 18 counties in 2010 and run by private companies. ECRI notes with concern that according to NGOs many of the centres are unsuitable for families with young children and there is no independent review of complaints about the accommodation or the conduct of staff or other residents.
115. ECRI's also notes with concern that residents of the direct provision centres have little control over their everyday life (cooking, cleaning, celebrating important events), which in many cases impacts negatively on their family life. Moreover, very few activities are organised in the centres (although it has to be noted that the inhabitants, who have freedom of movement can participate in activities outside the centres). ECRI considers that, whereas the centres can serve a very useful role in providing necessary secure accommodation at a short notice, they are unsuitable for lengthy periods of stay; in particular they risk causing harm to the mental health of the residents. ECRI notes that it has been reported that 90% of asylum seekers suffer from depression after 6 months in the direct provision system and that they are 5 times more likely than an Irish citizen to be diagnosed with a psychiatric illness.<sup>25</sup> Furthermore, contracts with service providers do not impose any obligations on them to organise activities or train staff so as to acquire necessary intercultural skills.
116. ECRI recommends that the authorities conduct an in depth systematic review of the policy of direct provision, in particular with a view of allowing asylum seekers greater control of their everyday life.
117. ECRI calls on the authorities to consider creating an alternative system that would promote independence, ensure adequate living conditions and address the cultural, economic, health, legal and social needs of people seeking protection.
118. ECRI welcomes the launching in 2009 by the Office of the Refugee Applications Commissioner (ORAC, the first instance status determination body) of the third Training and Development Strategy for the period 2012 - 2014, which followed two earlier ones for 2005-2008 and 2009-2011, set clear goals and objectives for the development of the knowledge, skills and competencies required to assist its staff. Their implementation has been regularly monitored and reported in monthly reports and the ORAC Annual Report.
119. ECRI notes that ORAC delivered training on refugee status determination to newly assigned staff. Specialised training to staff also continued in order to equip them to deal sensitively and appropriately with vulnerable groups such as victims of trafficking and separated children seeking asylum. The Dublin Office of the United Nations High Commissioner for Refugees (UNHCR) also assisted with training on refugee law and procedures.

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<sup>25</sup> Irish Refugee Council "Direct Provision Policy: Summary Information and Policy Positions, pg. 4, <http://www.docstoc.com/docs/99826762/Direct-Provision-Policy-Summary-information-and-Policy-Positions>

120. ECRI recommends that the Irish authorities pursue and intensify their efforts to provide specific training on asylum and refugee questions to all officials involved in the asylum process, in particular to ensure that the criteria for recognition are effectively applied in practice.
121. In its third report, ECRI strongly recommended that the Irish authorities reduce the length of the asylum process and that all current procedural guarantees continue to be respected. ECRI also recommended that the appeal procedure concerning asylum claims be reformed to improve the transparency and accountability of the process.
122. ECRI recommended that the Irish authorities provide for integration measures aimed at asylum seekers in order to prepare them for their possible new life in Ireland.
123. ECRI notes that the asylum seekers may not engage in paid employment in Ireland and that their situation has not changed since the last monitoring cycle, in spite of repeated calls by human rights NGOs, international organisations, including ECRI, and asylum seekers' representatives. A weekly allowance of € 19.10 per adult and € 9.60 per child is disbursed to asylum seekers. ECRI notes that this allowance has not increased since 1999, which means that in real terms, it lost about a third of its value in the years since.
124. The main body that assists those with protection status in obtaining work is the National Training and Employment Authority (FÁS). Through a regional network of 66 offices and 20 training centres, FÁS operates training and employment programmes and provides a recruitment service to jobseekers and employers as well as an advisory service for industry and supports community-based enterprises. While FÁS does not run a targeted scheme to address the needs of refugees seeking employment, refugees can avail themselves of its general services.
125. ECRI notes that according to the UNHCR survey<sup>26</sup> most participants (refugees or persons with another protection status) felt that they were responsible for their own integration, but that the Government was also responsible and that the host society had to be welcoming and supportive. Nearly all participants agreed that speaking the language, having employment and knowing the values of society were important for their integration. A significant number of participants felt that they had not been sufficiently supported in their efforts to integrate. In relation to language, many felt that the available language courses were not always adapted to the different levels of English that persons with protection status have. Many had stopped attending classes because the English level provided was too low for them. In relation to work, all participants felt that this was important, but many said that they felt disadvantaged in the Irish job market because of lack of work experience acquired in Ireland and general discrimination. Some felt they had been clearly discriminated against because of their colour, but many indicated that they felt that employers preferred immigrants from within EU or simply did not understand what it meant to be a person with protection status and were therefore reluctant to give employment or only willing to give low paid temporary work.
126. On the basis of this survey, UNHCR summarises the recommendations from persons with protection status and finds that access to education and employment should be improved as well as public knowledge about persons with protection status. One of the major barriers to the workforce in Ireland for persons

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<sup>26</sup> Mapping Integration: UNHCR's Age, Gender and Diversity Mainstreaming Project on Refugee Integration in Ireland – 2008/2009, UNHCR 2009.

with protection status is the problem of acquiring recognition of qualifications obtained from their country of origin.

127. ECRI recommends that the authorities provide greater resources to assist persons with protection status with acquiring language skills and integrating in the Irish society.
128. ECRI urges the authorities to consider increasing the weekly allowance paid to persons in the asylum/protection process so as to restore it to at least the value it had when it was introduced in 1999 and reiterates its call on the authorities to consider allowing asylum seekers who have been in the asylum process for a significant period of time to engage in paid employment.

### **Other non-nationals**

129. In its third report, ECRI strongly recommended that the Irish authorities monitor the implementation of the Immigration Acts 2003 and 2004. It recommended in this regard that the necessary measures be taken to address any problems and that the results of this monitoring be taken into consideration when drafting the Immigration, Residence and Protection Bill.
130. ECRI recommended that the Irish authorities review the impact of the Habitual Residence Condition on all groups of migrants and envisage introducing the necessary amendments to ensure that it does not place members of these communities in a precarious situation.
131. Regarding access to welfare payments, the Social Welfare and Pensions (No.2) Act of December 2009 introduced amendments to the Habitual Residence Condition (HRC) concerning individuals either seeking asylum or protection status. Under the amendment, asylum seekers or those awaiting a decision on leave to remain (i.e. failed asylum seekers) cannot be considered as “habitually resident”. An individual must have a “right to reside” in the State to satisfy the HRC. The rationale was to prevent “welfare tourism” following the enlargement of the EU. ECRI notes that a number of Irish NGOs voiced their criticism concerning the application of this provision to individuals who had applied for asylum or another protection status in Ireland and thus could not be considered as habitually resident while awaiting a determination.
132. In general, deciding officers determine whether persons applying for a welfare payment satisfy the HRC on the basis of Guidelines, which can be consulted on the Department of Social Protection’s website<sup>27</sup>. However, ECRI has been informed that the Guidelines are complicated and difficult to understand. ECRI considers that this is one of the reasons why it is necessary to have access to previous decisions of the Social Welfare Appeals Office (SWAO)<sup>28</sup> to see how the rules are interpreted and applied in particular cases. The problem is that the SWAO does not publish its decisions on a systematic basis. It is true that the SWAO deals with a large number of appeals each year (34 027 in 2011). It is also true that it publishes a number of selected decisions on its website or in its annual report (for example, SWAO’s annual report for 2011 contains 19 summaries of decisions on the HRC made during the year in question). However, ECRI has been informed that it is not clear how representative these cases are (apparently in 2011 the SWAO dealt with more than 1 000 cases concerning the HRC). In ECRI’s view, for applicants to know how the HRC may apply to their cases, it is necessary to publish a much larger number of SWAO decisions regularly.

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<sup>27</sup> The Department of Social Protection also publishes a short leaflet on the HRC.

<sup>28</sup> The SWAO hears appeals against decisions on applications for welfare payment.

133. ECRI recommends that the authorities ensure foreseeability in the application of the habitual residence requirement by setting out clear rules and publishing, in addition to the Guidelines, the decisions of the authorities dealing with appeals against negative decisions based on the requirement in question.
134. In its third report ECRI recommended that the Irish authorities ensure that Irish children of non-Irish parents are not in effect precluded from fully enjoying the right to reside in Ireland. ECRI further strongly recommended that the best interests of the child be given due consideration with regard to pending applications for leave to remain in Ireland made by non-Irish parents of Irish children.
135. ECRI notes that the rules governing citizenship are set out in the Irish Nationality and Citizenship Acts 1956 to 2004. The latest amendments came into effect on 1 January 2005 through the Nationality and Citizenship Act 2004. Section 6 A) (1) of this Act provides that: "A person born on the Island of Ireland shall not be entitled to be an Irish citizen unless a parent of that person has, during the period of 4 years immediately preceding the person's birth, been resident of [...] Ireland for a period of not less than 3 years or periods the aggregate of which is not less than 3 years."
136. Prior to 2003, all children born in Ireland were Irish citizens and non-Irish national parents were able to seek leave to remain based on that. In 2003, the Constitution was amended to restrict citizenship and this was implemented by the Irish Nationality and Citizenship Act 2004. It provided that only children who had an Irish citizen parent, a parent who had an unconditional right to reside in Ireland, or a parent who resided there for three years, were entitled to Irish citizenship. In 2005 under the Irish Born Child Scheme a number of foreign national parents of children born in Ireland prior to 1 January 2005 were granted leave to remain for an initial period of 2 years; in 2007 and 2010 many of them were able to apply for further 3-year extensions of their leave to remain. It has to be noted, however, that many parents of Irish-born children lack clear and authoritative information about the changes brought about by the Nationality and Citizenship Act 2004 and mistakenly believe that as parents of Irish-born children they automatically qualify for leave to remain in Ireland.
137. Moreover, the concerns contained in the third report on Ireland remain over the fate of Irish children of non-Irish parents. A number of cases were initiated against deportation orders to parents of Irish children; these deportation orders were criticised and contested by NGOs.
138. In this context ECRI notes that on 8 March 2011 the European Court of Justice ruled in the Zambrano case C 34/09, that Article 20 of the Lisbon Treaty precluded a member State from refusing a third country national upon whom his minor children, who are European Union citizens, are dependent, a right of residence in the member State of residence and nationality of those children, and from refusing to grant a work permit to that third country national, in so far as such decisions deprive those children of the genuine enjoyment of the substance of the rights attaching to the status of European Union citizen.
139. ECRI strongly recommends that the Irish authorities introduce necessary legislative amendments in order to bring Irish legislation fully in conformity with the EU regulations on the right of residence, in particular as regards the leave to remain in Ireland of non-Irish parents of Irish children.
140. Census data indicates that the number of non-Irish nationals living in Ireland almost doubled to 420,000 between 2002 and 2006. However, the Quarterly National Household Survey for the second quarter of 2011 indicated a decrease of non-Irish nationals, estimating that there were 373,800 of them aged over 15

living in Ireland.<sup>29</sup> In 2006 non-Irish nationals accounted for about 10% of the total population, up from 6% in 2002, in 2011 non-Irish nationals accounted for about 11% of the total population. In 2011, 268,600 were nationals of other EU countries and 105,000 came from outside the EU. According to Eurostat, in 2009 there were 25,509 new residence permits issued and the citizenship of the largest group of persons granted new residence permits was that of the United States.

141. ECRI notes that the 2006 census collected information on ethnicity and cultural background for the first time. People of “White” ethnicity accounted for almost 95% of the population (3,956,609), those of “Asian” ethnicity accounted for 1.3% (52,345) and those of “Black” ethnicity made up just over 1% (44,300). Significant numbers (72,303) did not disclose their ethnicity in the census.
142. It has to be noted that in March 2011 there was a backlog of approximately 22,000 citizenship applications awaiting decision, approximately 17,000 of which had been awaiting decision for more than of 6 months with an average waiting time of 26 months.<sup>30</sup> ECRI welcomes the June 2011 announcement of the competent authorities concerning new measures to streamline the process of application for citizenship with the aim of making the procedure more accessible and more speedy for the applicants<sup>31</sup> thus leading to processing of all standard applications within six months from the moment of application.
143. ECRI welcomes the introduction of Citizenship Ceremonies to mark the granting of citizenship in which applicants take an oath of fidelity to the nation, receive their certificate of naturalisation and thereby become Irish citizens. ECRI considers that such initiatives significantly increase awareness of immigration into Ireland by the society in general and improve the manner in which society perceives migrants. ECRI is particularly pleased to note that recently a number of improvements have been adopted with regard to the naturalisation decisions: currently they contain reasons and applications are no longer refused on the mere ground that the applicant was a recipient of welfare benefits. However, it has to be noted that the minister responsible still has great discretion in this area, although his/her decisions are subject to judicial review.
144. According to the authorities, there are no plans to introduce a system allowing for full appeals in citizenship matters.
145. ECRI encourages the authorities to introduce clear criteria for the examination of naturalisation applications.

## **V. Conduct of Law-Enforcement Officials**

146. In its third report ECRI welcomed the adoption of the Garda Síochána Act 2005 which provided for the creation of a new Garda Síochána (Police) Ombudsman Commission (GSOC). This Commission which was appointed on 10 February 2006, has the power directly and independently to investigate complaints against police officers and carry out investigations proprio motu. In May 2007 the GSOC commenced hearing complaints. In 2010, the GSOC was allocated a budget provision of € 10,242,000 which represents an 8% decline compared to 2009.

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<sup>29</sup> Quarterly National Household Survey Quarter 2 2011, CSO, September 2011.

<sup>30</sup> Press release, Minister Shatter introduces major changes to citizenship application processing regime, Department of Justice and Equality, 19 June 2011.

<sup>31</sup> National report submitted to Human Rights Council within the Universal Periodic Review, 22 July 2011, p. 20, <http://www.inis.gov.ie/en/INIS/Pages/PR11000033>.

147. ECRI notes that in 2008, 2,681 complaints were registered by the GSOC. In 477 cases, the complainant provided a description of the perceived motive for the alleged misbehaviour of which 61 instances were described as discrimination.<sup>32</sup>
148. In 2010, the GSOC received 2,258 complaints from members of the public, of which 722 were inadmissible. The complaints contained 4,931 allegations of misconduct by gardaí of which 1,087 were deemed inadmissible. The GSOC continued raising awareness about its role through booklets for the general public. Investigation by the GSOC led already to a number of convictions of Gardaí.
149. ECRI welcomes the recruitment of seven trainees and 28 reserve trainees from non-Irish background by the Garda in 2009. As from the start of 2011, there were 46 foreign nationals serving as members of the Irish police force.
150. The Garda Racial and Intercultural Office continued its work on the coordination, monitoring and advising on all aspects of policing in the area of diversity. Among other things it was involved in providing training seminars for the Ethnic Liaison Officers. Their role is to liaise with the leaders of ethnic communities and to inform and assure the ethnic communities of Garda services and protection. Anyone reporting that they have been the victim of a racist incident will be informed by the Gardaí of the designated Garda Ethnic Liaison Officer in their area. As of November 2011 there were 349 members of the Irish police force serving as Ethnic Liaison Officers.
151. The Garda Síochána developed a training package under the programme “Diversity Works”. ECRI welcomes in particular the development of the “Garda Síochána Diversity Strategy and Implementation Plan 2009-2012”. This diversity strategy was developed following extensive research and consultation with key internal and external stakeholders. Its implementation should lead to improved employment conditions, service delivery and police practice across the nine equality grounds – gender, ethnicity, marital status, family status, religion, sexual orientation, disability, age or membership of the Traveller community. The strategy applies to all current and potential employees and covers all aspects of employment, including recruitment, selection, retention, development as well as terms and conditions of employment.
152. ECRI recommends that the Irish authorities continue their efforts to provide their law enforcement officials with training in human rights, focusing on the fight against all forms and manifestations of racial discrimination and xenophobia and on policing in a multicultural society, and make it a compulsory part of their initial and on-going training.
153. ECRI encourages Irish authorities to pursue their efforts to implement measures designed to ensure that a significant number of persons of non-Irish background is recruited in the police to make the latter truly representative of Irish society.
154. In its third report, ECRI recommended that the Irish authorities monitor the implementation of the Immigration Acts to establish in particular whether racial profiling was carried out by the police.
155. ECRI notes that according to the Irish authorities the Garda do not engage in, or carry, out racial profiling<sup>33</sup>. It has to be noted however that according to other sources, including CERD, there are reports that many non-Irish people are

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<sup>32</sup> National report submitted to CERD, 21 December 2009, §§ 75-76.

<sup>33</sup> Report of the Working Group on the Universal Periodic Review, 21 December 2011, p. 18, paragraph 108, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-9\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-9_en.pdf).

subjected to police stops and are required to produce identity documents, which in practice can result in racist incidents and the profiling of individuals on the basis of their colour<sup>34</sup>.

156. ECRI reiterates its recommendation that the Irish authorities monitor the application of the Immigration Acts 2003 and 2004, in particular as regards allegations of racial profiling. ECRI recommends further that the Irish authorities consider adopting legislation prohibiting any form of racial profiling.

## VI. Monitoring

157. In its third report, ECRI reiterated its recommendation that the Irish authorities establish and implement a system of ethnic data collection to assess and redress any racial discrimination that may exist in the country, in full compliance with all the relevant national laws as well as European and international regulations and recommendations on data protection and the protection of privacy, as stated in ECRI's General Policy Recommendation No.1 on combating racism, xenophobia, anti-Semitism and intolerance.

158. ECRI recommended also that the Irish authorities use data gathered in the 2006 census to garner information on the situation of ethnic minorities and non-nationals in various areas and identify possible problems of racial discrimination that may require further investigation.

159. ECRI notes that the CSO provides detailed official data which are broken down by grounds such as ethnic or national origin, gender or religion in order to monitor situations of vulnerable<sup>35</sup> groups across a number of areas (including education, employment, housing, healthcare, etc.). A comprehensive survey published by CSO in July 2011 on equality and discrimination among people aged 18 was based on perception of respondents.

160. The Data Protection Act 2003 provides for the processing of equality data with the informed consent of the person concerned. A Data Protection Commissioner is meant to uphold the rights of individuals as set out in the Act and enforce the obligations upon data controllers. The Commissioner carries out awareness-raising measures. For example, the Commissioner has had booklets published which explain to the groups of concern to ECRI the role of the office and individual rights relating to data protection.

161. The census carried out in April 2011 included questions on nationality,<sup>36</sup> ethnicity, religion, whether the person spoke Irish and whether the person spoke other languages at home. The rationale behind each question was explained to the public at large in detail. ECRI is pleased to note that the census form and guide were made available in English and 21 other languages.

162. ECRI recommends that the authorities process the data collected in the census with full respect for the safeguards, notably those related to the protection of personal data, as laid down in the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS No. 108) and the Committee of Ministers Recommendation (97)18 concerning the protection of personal data, and use it to monitor the situation of groups of concern to ECRI by means of disaggregating data by ethnic origin, language, religion and nationality.

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<sup>34</sup> CERD report on Ireland, 4 April 2011, p. 4, paragraph 18.

<sup>35</sup> i.e. groups of concern to ECRI.

<sup>36</sup> The term "nationality" in Question 10 of the census form ("What is your nationality?") referred to citizenship, while the term "ethnic background" in Question 11 ("What is your ethnic or cultural background?") referred to national or ethnic identity.



## VII. Education and Awareness-Raising

163. In its third report, ECRI recommended that the authorities ensure the inclusion of human rights and anti-racism in the teacher training curriculum at all levels. ECRI further recommended that they ensure the implementation of the education component of the National Action Plan Against Racism as well as the Guidelines on Intercultural Education. ECRI further encouraged the authorities in their development of a National Intercultural Strategy on Education and recommends that suggestions by NGOs and other interested parties be included in the objectives established therein.
164. ECRI encouraged the Irish authorities to continue their anti-racism awareness measures and recommends that minority-led organisations be consistently involved in these initiatives from inception to implementation.
165. ECRI welcomes Ireland's commitment to continuing to provide support for human rights education and training in order to enhance awareness and respect for human rights. Human rights issues are addressed at both primary and post-primary levels of the education system and there are human rights programmes in a number of third-level education institutions.
166. The Irish Human Rights Commission provides training to civil and public servants within "Human Rights Education and Training Project" which was set up in March 2010 with philanthropic support. The first phase of the project ran until July 2011 with a view to expanding the project in the years following. As part of the project, a Human Rights Guide for the Civil and Public Service was published and is available online.
167. ECRI notes that funding was also provided to local authorities around the country to support local programmes that educate the public on issues such as immigration, integration and antiracism. For example, Dublin City Council ran an anti-racism campaign on the Dublin transport system in 2010 and 2011.
168. NERA launched a major publicity campaign "Employment Rights, your need to know" to inform workers of their rights in January 2008. The cross-media advertising campaign was designed primarily to raise the issue of employment rights with employers and employees and also to highlight the role of NERA in providing information. In 2010, NERA engaged in a pilot education and awareness campaign aimed specifically at workers in the domestic sector. It was developed with the active involvement of relevant NGOs.
169. In December 2007 Ireland became an Observer Country of the Task Force on International Cooperation on Holocaust Education, Remembrance and Research which aims to place political and social leaders' support behind the need for Holocaust education, remembrance and research, both nationally and internationally. Ireland was accepted as a full member of the Task Force on 1 December 2011.
170. ECRI welcomes the support, including financial support, offered by the Office for the Promotion of Migrant Integration for the Holocaust Memorial Day commemoration.
171. ECRI encourages the Irish authorities to continue to implement intercultural education in practice in all schools.



## INTERIM FOLLOW-UP RECOMMENDATIONS

The three specific recommendations, for which ECRI requests priority implementation from the authorities of Ireland, are the following:

- ECRI recommends that the authorities draft and adopt as soon as possible the Immigration, Residence and Protection Bill so as to (inter alia)
  - (a) Put in place one procedure for dealing with applications for asylum and subsidiary protection
  - (b) Introduce a long-term residence status (granting same rights as those enjoyed by nationals in the field of university education)
  - (c) Introduce procedures for registration of non-national minors under 16.
- ECRI recommends that the authorities, without neglecting the need to rationalise the various procedures for dealing with complaints concerning employment, ensure that there is an independent authority (other than the courts) competent to deal with cases of discrimination in the provision of goods and services.
- ECRI recommends that the authorities ensure foreseeability in the application of the habitual residence requirement by setting out clear rules and publishing, in addition to the Guidelines, the decisions of the authorities dealing with appeals against negative decisions based on the requirement in question.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report.



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