

ECRI

European Commission against Racism and Intolerance
Commission européenne contre le racisme et l'intolérance

CRI (2002) 3

European Commission against Racism and Intolerance

SECOND REPORT ON IRELAND

Adopted on 22 June 2001

Strasbourg, 23 April 2002



COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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Foreword

The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

At the end of 1998, ECRI finished the first round of its country-by-country reports for all member States. ECRI's first report on Ireland is dated 7 June 1996 (published in September 1997). The second stage of the country-by-country work, initiated in January 1999, involves the preparation of a second report on each member State. The aim of these second reports is to follow-up the proposals made in the first reports, to update the information contained therein, and to provide a more in-depth analysis of certain issues of particular interest in the country in question.

An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.

The contact visit to Ireland took place on 5-9 March 2001. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the Irish national authorities for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation each of whom provided much valuable information on their own field of competence. ECRI would also like to thank the Irish national liaison officer whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.

Furthermore, ECRI would like to thank all the representatives of non-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.

The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 22 June 2001 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.

Executive summary

Ireland has taken a number of significant steps towards combating racism and intolerance since the publication of ECRI's first report, including the ratification of important international legal instruments, the adoption of a body of anti-discrimination legislation, the establishment of an infrastructure of specialised bodies to support this legislation, and the creation of a framework of bodies for the reception of asylum seekers and refugees.

Although there is today a growing recognition of Ireland as an intercultural society, there still exists a certain degree of prejudice and intolerance towards members of minority groups, both "new" minority groups (persons of immigrant origin, asylum seekers and refugees) but also the "old" minority group, the Traveller Community. Discrimination and racism are manifested notably in the refusal of entry into public places, public misconceptions concerning refugees and asylum seekers, sometimes fuelled by biased media reporting, verbal and other harassment and in some cases violence. A lack of reliable data makes the extent of such manifestations hard to monitor.

In the present report, ECRI recommends that the Irish authorities take action in a number of fields. It recommends, inter alia, the strengthening and effective application of criminal law provisions to combat racism, the introduction of data-gathering mechanisms on the incidence of racism and discrimination and the situation of minority groups, increased efforts to raise awareness among the general public, more concerted action to improve the situation of the Traveller Community, and a reconsideration of long-term policies and strategies aimed at asylum seekers and refugees.

SECTION I: OVERVIEW OF THE SITUATION

A. International Legal Instruments

1. Ireland has signed and ratified a large number of international legal instruments relevant in the field of combating racism and intolerance and many positive steps have been taken in this area since the publication of ECRI's first report. In particular, Ireland ratified, in December 2000, the International Convention on the Elimination of All Forms of Racial Discrimination, making at the same time a declaration under Article 14 of this Convention allowing individual communications to be accepted by the Committee for the Elimination of Racial Discrimination (CERD). Ireland was in a position to implement the provisions of this Convention with immediate effect due to the prior adoption of the Employment Equality Act 1998 and the Equal Status Act 2000. In September 1999, Ireland ratified the Framework Convention for the Protection of National Minorities. It also ratified in 1999 the ILO Convention N°111 concerning Discrimination in Respect of Employment and Occupation, as was recommended in ECRI's first report.
2. Ireland has included the four main operational Protocols to the European Convention on Human Rights, ie Protocols N°s 1, 4, 6 and 7, in proposed domestic legislation to give further effect to the provisions of the European Convention on Human Rights. Protocol N° 12, which has been signed by Ireland in November 2000, has not been included in this legislation as the Protocol has not yet become operational. ECRI urges the Irish authorities to proceed to ratification of Protocol 12 as swiftly as possible.
3. ECRI understands that the intention is to ratify the European Charter of Local Self-Government once the new Local Government Bill is enacted in Parliament, and hopes for a swift conclusion of this process.
4. ECRI encourages the Irish authorities to sign and ratify the European Convention for the Participation of Foreigners in Public Life at Local Level, noting with satisfaction that it is already the case in Ireland that any person who is normally resident in the country can vote and stand in local elections. As regards the European Convention on Nationality, ECRI understands that the Irish authorities are currently considering the possibility of its ratification, and urges them to sign and ratify this instrument as soon as possible. ECRI also encourages the Irish authorities to sign and ratify the European Charter for Regional or Minority Languages, the UNESCO Convention against Discrimination in Education and the European Convention on the Legal Status of Migrant Workers.
5. As regards the relationship between international law and the domestic legal order, Ireland follows a dualist system according to which international treaties to which Ireland is a party are not incorporated into the Irish legal order¹. It is therefore in some cases necessary to transform the entire content of an international treaty into the Irish legal order by providing, by an Act, that the international treaty has the force of law. In other cases only certain obligations of an international treaty need to be transformed into the Irish legal order as the remainder of the obligations are already reflected in domestic legislation, while some international treaties do not need to be transformed at all since their provisions are already entirely reflected in domestic legislation. In the

¹ Article 29 (6) of the Constitution states that "No international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas [Parliament]"

Multi-Party Agreement of April 1998 concerning the future of Northern Ireland, the Irish government made a commitment to underpin the constitutional protection of human rights, focusing inter alia on the question of incorporation of the European Convention of Human Rights into the Irish legal order. The European Convention on Human Rights Bill 2001 - as initiated in April 2001 – would allow a person to rely on and claim their rights as guaranteed under the Convention directly before the Irish courts and the Bill provides for remedies for persons whose rights have been violated. ECRI hopes that this Bill will swiftly complete its passage through the Oireachtas without change to its provisions.

B. Constitutional provisions and other provisions

6. The Constitution of Ireland, adopted in 1937, expressly guarantees most of the universally-recognised human rights and fundamental freedoms. However, many of the major international human rights documents, including the European Convention of Human Rights, were drafted after the Irish Constitution, with the result that the rights guaranteed in the Constitution are in some cases incomplete as regards contemporary human rights standards. The rights enshrined in the Constitution have therefore been further developed by the Superior Courts through the doctrine of unenumerated personal rights, largely by means of judicial review of legislation. While the development of this doctrine has proved in many cases beneficial, its objective shortfalls have been demonstrated several times. ECRI therefore welcomes the introduction of the European Convention on Human Rights Bill, which is currently before the Oireachtas (see above).
7. The Constitution guarantees in its Article 40 paragraph 1 equality to all citizens as human beings before the law. This is understood to protect citizens from discrimination based on factors such as ethnic, racial, social or religious background. In Article 44 paragraph 2, the Constitution guarantees to every citizen freedom of conscience and the freedom to practise their religion, as well as freedom from discrimination on the ground of religious profession, belief or status. ECRI noted in its first report that the position is less clear as regards the constitutional rights of non-citizens in Ireland. Although many of the rights referred to in the Constitution are guaranteed to citizens, existing jurisprudence has applied many of these rights to non-citizens. Moreover, the rights specified under new anti-discrimination legislation² are guaranteed for all persons, not just citizens. Nevertheless, ECRI reiterates its recommendation that consideration be given to the possibility of a constitutional amendment expressly ensuring equality and other human rights for all individuals under Irish jurisdiction. This would be particularly timely given the growing non-citizen population in Ireland and in the context of the incorporation of the European Convention of Human Rights into Irish legislation.

- Citizenship legislation

8. ECRI notes with interest that Ireland is one of the few European countries which grants citizenship automatically to any child born on its territory, regardless of the citizenship of the parents. Given the rise in immigration into Ireland, ECRI is of the opinion that such provision may play a positive role in facilitating the integration of immigrant populations into Irish society.

² See civil and administrative law provisions below

9. Non-citizens can obtain Irish citizenship either by descent, through naturalisation and through post-nuptial citizenship. Naturalisation can be obtained after a total of five years residence in Ireland during a nine-year period preceding the application. This condition can be waived by the Minister of Justice, Equality and Law Reform, who has discretionary powers in this field, if the applicant is of Irish descent or has Irish associations or is a refugee or a stateless person. ECRI notes with satisfaction that the practice has been to use this discretionary power to grant citizenship to refugees who have resided in Ireland for three years rather than five years, stressing the important role that the obtaining of citizenship may play in facilitating integration.

C. Criminal law provisions

10. The Prohibition of Incitement to Hatred Act 1989 makes it an offence to incite hatred against any group of persons in the State or elsewhere on account of their race, colour, nationality, religion, ethnic or national origins, or membership of the Traveller community. Under the Act the following deeds aiming to stir up hatred are punishable by imprisonment and/or a fine: publishing or distributing written material; using words or behaviour or displaying written material; distributing, showing or playing a recording of visual images or sounds; broadcasting an item; preparing or possessing written material or recordings of visual images or sounds.
11. Since the Act came into force only two cases have been brought before the courts, of which one resulted in a conviction which was, however, subsequently overturned. In the light of this lack of cases, concern has been expressed in Ireland that the legislation may not be adequate to effectively combat the various forms of incitement to hatred. In particular, it has been noted that the requirement to prove intention to incite to hatred or the likelihood to stir up hatred may hinder successful prosecution, and that the word "hatred" may be open to a rather narrow interpretation, as may the bases upon which incitement to hatred is prohibited. Moreover, the requirement that the Director for Public Prosecutions must agree to a case being brought may also in some cases prove a barrier to implementation of the Act. ECRI notes with interest that the government has announced its intention to review the Prohibition of Incitement to Hatred Act in consultation with ethnic minority groups with a view to rendering it more effective, and urges that such review be carried out as a matter of priority, addressing in particular the issue of facilitating successful prosecution.
12. The provisions of the Employment Equality Act, 1998, the Equal Status Act, 2000, and the Prohibition of Incitement to Hatred Act, 1989, together with provisions of the Offences against the State Act 1939 make illegal organisations which promote and incite racial hatred and discrimination and render membership of such organisations a criminal offence. The Public Order Act 1994 may be used in some cases to combat racist acts although on public order grounds rather than on the grounds of prohibiting racist acts per se.
13. ECRI notes that at present, there are no provisions in Irish criminal law defining common offences of a racist or xenophobic nature as specific offences. ECRI encourages the Irish authorities to introduce provisions specifically defining offences of a racist or xenophobic nature as racist acts and to introduce the possibility for courts to take into account racist motivation as an aggravating circumstance when sentencing.

D. Civil and Administrative Law Provisions

14. Since the publication of ECRI's first report on Ireland, some important steps have been taken to introduce a body of civil and administrative legislation to fight racism and discrimination, notably the Employment Equality Act 1998 and the Equal Status Act 2000.
15. The Employment Equality Act 1998, which came into force in October 1999, prohibits discrimination in the workplace on nine distinct grounds: gender, marital status, family status, sexual orientation, religious belief, age, disability, race, and membership of the Traveller community (the broad definition of race covers race, colour, nationality or ethnic or national origins). It covers discrimination in relation to access to employment, conditions of employment, equal pay for work of equal value, training, promotion and work experience.
16. The Equal Status Act 2000, which came into force in October 2000, deals with discrimination outside the employment context, including education, provision of goods, services and accommodation and disposal of property on the nine grounds mentioned above. It covers services provided by the State as well as by the private sector.
17. An equality infrastructure - the Equality Authority and the Office of Director of Equality Investigations – was established under the new legislation with a view to its successful implementation (see Specialised Bodies below).
18. ECRI welcomes this body of anti-discrimination legislation as a significant step forward in the fight against racism and discrimination in Ireland. While it is still early to evaluate the implementation of these Acts, ECRI is pleased to learn that both pieces of legislation provide for a review mechanism whereby the Minister for Justice, Equality and Law Reform must review the grounds listed after two years with a view to their extension if necessary. In the context of a forthcoming review of both pieces of legislation, foreseen for 2002, ECRI encourages the Irish authorities to take into consideration the various comments made by interested parties as to possible areas for improvement in the legislation.
19. It has been suggested, for example, that some amendments to the Acts would be necessary to bring the legislation into line with the EU Directive on equal treatment between persons irrespective of racial or ethnic origin³. Section 15 of the Equal Status Act, which allows a landlord or service provider to discriminate in circumstances which would lead him or her – being a reasonable person – to believe that there was a substantial risk of criminal or disorderly behaviour or damage to property – has also been criticised on the grounds that this might allow for discrimination because of a perceived risk that other tenants or clients might react in a criminal or disorderly fashion to the presence of the person in question.
20. As regards the procedural requirements of the legislation, it has been commented that some of the requirements for the bringing of cases may tend to hinder applicants from proceeding with complaints. In this context, mention has been made of the possibility of removing the time limit for the presentation of complaints to the Director – currently six months after the alleged discriminatory act -- and the possibility of

³ *European Council Directive 2000/43/EC*

allowing victims to bring cases directly before the Director of Equality Investigations without the current obligation of first notifying the complaint formally in writing, within a two-month time limit, to the person alleged to have discriminated. It has also been commented that the levels of compensation allowed for might be increased. Finally, it has been noted that the possibility of allowing for positive action on the grounds of race in the Employment Equality Act might be considered, given that the Act already allows for positive action on some of the other grounds.

E. Specialised bodies and other institutions

- *Equality Authority*

21. The Equality Authority is an independent body established in October 1999 under the Employment Equality Act 1998. It works to eliminate discrimination under the nine grounds covered by the Employment Equality Act 1998 and the Equal Status Act 2000. It provides a free confidential information and advisory service to employers, service providers, individuals, trade unions and the legal profession on the implementation of the equality legislation, and can provide free assistance to any person who considers that he or she may have been discriminated against contrary to the provisions of the legislation. The Authority may conduct formal enquiries and, where it finds evidence of discrimination, direct that such discrimination be redressed. It is also empowered to draft codes of practice for the approval of the Minister for Justice, Equality and Law Reform, to conduct equality reviews and to prepare action plans.
22. The Equality Authority has taken several initiatives to raise awareness of issues of racism and discrimination and of the new legislative framework which exists, including the organisation of an Anti-Racism in the Workplace Week, the preparation of a range of publications and videos in a variety of languages and formats to help people understand the equality legislation, and preparation of an anti-Discrimination Equality Pack for the Irish Traveller Movement. ECRI welcomes such initiatives, noting that there has been a rapid rise in the number of enquiries to the Authority since its inception, which would seem to indicate that there is a growing awareness of the possibilities for redress.

- *Office of the Director of Equality Investigations*

23. The Office of the Director of Equality Investigations was established in 1999 and is now the main forum of first instance for deciding claims under both the new Equality Acts. It is a quasi-judicial body, established under the 1998 Act, with the legal obligation of investigating and deciding claims of discrimination under both Acts, on all of the nine grounds specified. A team of specially-trained Equality Officers, appointed by the Director, have wide powers to investigate a complaint. In cases where a complaint is upheld, they have powers to order compensation, redress and/or that a specified course of action be taken by a person or persons. Decisions of the Equality Officers, who are independent and impartial in their functions, are legally-binding, and can be appealed by either party to the courts. The procedure is free of charge. The mediation process is more informal and involves the signing of a binding agreement by both parties.
24. ECRI welcomes the establishment of this Office as an innovative way to facilitate the access to justice for persons having experienced discrimination. In particular, ECRI

believes that such a process of redress may be less intimidating and thus more accessible than the formal court system.

- ***Human Rights Commission***

25. As a consequence of the Good Friday Peace Agreement of 1998 and following the enactment of the Human Rights Commission Act 2000, Ireland has recently established a Human Rights Commission with a very broad mandate and remit. Its duties include examining governmental legislative proposals, promoting awareness of human rights, making recommendations to government, and acting as a “friend to the court”. It will also have the power and means to investigate. ECRI welcomes the establishment of this body, noting that although its terms of reference and remit cover human rights in general, issues of discrimination and racism are likely to form an important part of its activities. ECRI hopes that the Commission will play a high-level role in speaking out against manifestations of racism and intolerance, thus complementing the work of the other specialised bodies in this field, and encourages the authorities to ensure that the Human Rights Commission receives on an on-going basis the resources necessary to develop its action fully and independently.

- ***National Consultative Committee on Racism and Interculturalism (NCCRI)***

26. The National Consultative Committee on Racism and Interculturalism (NCCRI) was established in 1998 with the aim of providing an ongoing structure to develop programmes and actions aimed at developing an integrated approach against racism and to act in a policy advisory role to the government. It is a partnership of twenty state agencies, social partners, government departments and non-governmental organisations. Its recent initiatives have included the development of an anti-racism protocol for all political parties, the establishment of a Community Development Unit to provide support to refugees and asylum seekers, and the provision of anti-racist training in various state agencies.
27. Given the fact that the bodies mentioned above are all relatively new, ECRI considers that a priority should be to ensure that the general public is aware of their existence, their differing functions and powers and of the recently-introduced equality legislation which underpins their work. ECRI notes that the Irish authorities have allocated funds for a public awareness-raising campaign aimed at combating racism and promoting a multi-cultural society.

F. Education and training/awareness-raising

- ***Education to combat racism and intolerance***

28. In its first report ECRI expressed its concern that human rights education in Ireland was not taught in a systematic fashion. New initiatives have since been taken to introduce human rights education into schools at primary and secondary level and, after a pilot scheme and delivery-training for teachers, programmes are now being phased into schools, with an emphasis on recognising Ireland as a multicultural society and a respect for diversity. ECRI encourages the Irish authorities to continue to develop and expand initiatives in this field, and in particular to ensure that all teachers are provided with a thorough and on-going training in delivering human

rights education. ECRI stresses the importance of the very early years of schooling as a focal point for combating prejudice and racist attitudes. ECRI also notes the White Paper on Adult Education, which has a strong emphasis on cultural diversity and integration. Furthermore, ECRI believes that more attention should also be paid to ensuring that the culture and background of children from minority groups is reflected in materials across the school curriculum.

G. Reception and status of non-citizens

- *Immigration*

29. The rise in immigration into Ireland for employment purposes has necessitated the development of new legislation and policies. An Immigration and Residence Bill is currently under preparation, and ECRI is pleased to learn that the intention is to enshrine the principle of non-discrimination in this legislation.
30. Some problems have been signalled as regards the current immigration procedures. For example, it has been reported that border police, who are empowered to refuse entry even to persons with valid visas (the Irish visa system entitles the holder only to present him or herself at the frontiers of the State to seek leave to enter Ireland), have detained and then sent back persons with valid work permits and visas on the grounds that their employment offer no longer existed or that they had insufficient funds to support themselves. In this respect, ECRI notes that new arrangements have been put in place with the Department of Enterprise, Trade and Employment to try to make alternative arrangements for persons arriving in Ireland with work visas and whose work vacancy no longer exists.
31. As regards illegal immigration, the extent and nature of this phenomenon are hard to evaluate, although there have been some anecdotal reports of trafficking in women towards the United Kingdom. While recognising the need to effectively combat human trafficking, ECRI notes that concern has been expressed that more restrictive legislation to combat illegal immigration, notably the Illegal Immigrants (Trafficking) Act 2000 and the proposed Carrier Liability Legislation, may have a detrimental effect on the protection offered to asylum seekers attempting to enter Ireland. The practice of border control officers of boarding vessels off-shore has also been mentioned in this respect. ECRI urges the authorities to consider and address such concerns.

- *Refugees and asylum seekers*

32. There has been a substantial increase in numbers of asylum applications over recent years, from a very low base figure. There were 400 applications in 1995 and almost 11 000 in the year 2000, with numbers still rising. The issue of refugees and asylum seekers is consequently much to the forefront of public debate, and has perhaps been the catalyst for much of the current focus on issues of racism and discrimination, and on the growing multicultural nature of Irish society.

- ***Processing of asylum applications***

33. In order to cope with the new situation and with a view to processing applications more speedily, the authorities have put into place new legislation and infrastructures, supported by a substantial increase in monetary and human resources allocated to this field. While asylum applications were previously dealt with primarily through administrative procedures drawn up in conjunction with the UNHCR, the amended Refugee Act 1996, which came into force in November 2000, provides a legal framework for the treatment of applications, accompanied by the establishment of new statutory independent structures to consider applications/appeals for refugee status and to make recommendations to the Minister of Justice, Equality and Law Reform on whether such status should be granted. These structures are the Refugee Applications Commissioner (RAC), which considers applications for a declaration as a refugee at first instance, and the Refugee Appeals Tribunal (RAT), which considers applications for a declaration at appeal stage. Moreover, a new body, the Reception and Integration Agency, has been created to replace the Directorate for Asylum Support Services and the Refugee Agency, with responsibility for co-ordinating the provision of accommodation for asylum seekers as well as co-ordinating the implementation of the Government's integration policy for recognised refugees and persons granted humanitarian permission to remain in Ireland. The Refugee Legal Service provides free legal advice and assistance to asylum seekers. Finally, a Refugee Advisory Board, comprising representatives of all the governmental departments with responsibility in the area and NGO representatives, is to be set up to advise the government on all aspects of asylum issues.
34. Although it is still rather early to evaluate the effectiveness of these new bodies, ECRI welcomes the efforts of the Irish authorities to put in place a comprehensive infrastructure for the processing of asylum applications and for providing for asylum seekers and refugees. In a situation where large numbers of staff are being recruited rapidly, ECRI stresses the importance of ensuring that all persons dealing with asylum applications are provided with a thorough training in the area of human rights, cultural sensitivity and issues of racism and discrimination. Measures should be taken to ensure that due sensitivity is paid to the various cultural backgrounds and experiences of asylum seekers, including gender-related issues, such as for example the provision of female interpreters and interviewers where appropriate.
35. As regards asylum seekers whose applications have been rejected, there have so far been relatively few deportations. However, it has been commented that this situation may now evolve given the larger numbers of applicants and the intention to speed up the application procedure. New legislation has been introduced allowing for detention prior to deportation and setting out the deportation principles and procedures. ECRI encourages the authorities to keep the procedures and practical application of the deportation process under close scrutiny and to consider the timeliness of introducing special training for police officers involved in this area to prevent any problems from occurring; in this respect, ECRI notes that a specialised course for members of the Garda National Immigration Bureau has been delivered by the Garda Racial and Intercultural Office.

- ***Accommodation and provision for asylum seekers***

36. As regards the accommodation of asylum seekers who are waiting for their applications to be processed, a dispersal policy was introduced in 2000 whereby

various accommodation units, including hostels and mobile homes, were set up in around 70 locations throughout the country to receive asylum seekers. This policy initially met with a considerable wave of hostility on the part of some local communities, fuelled by certain elements of the media. However, it appears that most of this hostility has now died down, and that many local communities have been instrumental in taking steps to welcome asylum seekers and set up various support structures.

37. Asylum seekers are subject to a system of direct provision whereby they receive full board and an allowance of IR £ 15 per adult and IR£ 7.50 per child per week. Concern has been expressed that the financial allowances provided are not adequate to meet the needs of asylum seekers, who are not entitled to enter employment.
38. Although the policy of dispersal of asylum seekers provided an immediate solution to the acute shortage of suitable accommodation in the Dublin area, ECRI is concerned that in some cases the location of some accommodation units may lead to isolation of asylum seekers from members of their communities and from the services they need to access to proceed with their applications. Concern has also been expressed that language difficulties and lack of financial resources may hinder asylum seekers in isolated areas from accessing medical care. It has also been reported that the accommodation provided is not in some cases of a satisfactory standard, and that on occasion sufficient sensitivity has not been shown to the differing needs of asylum seekers from various countries and backgrounds. Generally, it appears that there is a need for more co-ordination and monitoring of the accommodation provided around the country, and a general reconsideration of the long-term strategies for providing for asylum seekers.

- ***Integration strategies***

39. Although integration measures such as language training exist for recognised refugees, the Report of the Interdepartmental Working Group on the Integration of Refugees revealed a lack of a co-ordinated national integration policy, with programmes described as being only “partially successful”. ECRI notes that this situation is connected with the high number of new nationalities represented in the population of Ireland. However, ECRI hopes that the new structures now put in place to address the issue of integration will develop a comprehensive integration strategy, in close co-operation with parties working in the field to ensure that the real and diverse needs of the refugees are addressed.
40. Presently, no integration measures at all are foreseen for asylum seekers. ECRI would like to stress the importance of integration measures from the outset of the asylum application process, both for the asylum seekers themselves, who may in the first place spend quite long periods in Ireland while their applications are under consideration, and who may then be granted refugee status or humanitarian permission to remain, but also to increase awareness and understanding among the majority. ECRI encourages the Irish authorities to introduce integration measures aimed at asylum seekers, and noting the positive role that many local communities have played in setting up support structures and services, considers that one strategy might be to provide further funding and support for such initiatives at the local level, with as much participation as possible of the asylum seekers themselves.
41. In the context of Ireland’s current economic situation, the issue of permitting asylum seekers to work while awaiting a decision on their applications has been much

discussed. Currently, asylum seekers do not in general have the right to work⁴: the authorities have stated that this ban is to deter, for a variety of reasons, economic migration by means of the asylum application route. The trade unions and employers' organisations, are, however, in favour of allowing asylum seekers to work. ECRI is aware that in many countries, asylum seekers are not permitted to enter the labour market. However, it is also aware that in Ireland, many asylum seekers are apparently employed in the black market economy. ECRI also notes that the system of direct provision, whereby asylum seekers are provided with full board and lodgings and only a minimal allowance, may mean that many asylum seekers are extremely eager to find paid employment, and that the possibility to provide for themselves and their families may play an important role, both as regards their psychological well-being and as regards their short- and long-term integration and acceptance into society. In the light of all these issues, ECRI wonders whether the Irish authorities might reconsider their position on the ban on employment for asylum seekers.

42. ECRI furthermore considers that improving the dissemination of information abroad concerning the possibilities for obtaining work permits in Ireland would also be a positive step in enabling persons wishing to enter Ireland to find employment to use the appropriate procedure.

H. Access to public services

- Access to social services such as health care, welfare and housing

43. See "Issues of particular concern" for information concerning the Traveller Community

- Access to Education

44. With the changing demographic patterns in Irish society, children of immigrant background are increasingly present in the Irish education system. All non-citizen children have the right to attend Irish schools, and measures have been put in place to assist children of immigrant background in integrating the school system, such as additional funding for extra teachers to provide language support. Although some mother tongue teaching and culture classes were organised for certain groups of "programme refugees"⁵, there has apparently not been as yet provision along such lines for children of other minority groups. ECRI encourages the Irish authorities to consider ways of developing the provision of mother tongue teaching for children from other minority groups, while noting that the system of dispersal whereby asylum seekers and refugees are accommodated throughout the country, may make such provision difficult to organise in practice. The possibility of recruiting teachers or teaching auxiliaries from amongst minority communities could represent a positive step in assisting the integration of minority pupils in the school system.

45. The issue of disadvantage and discrimination faced by Traveller children as regards education is dealt with below under issues of particular concern.

⁴ As an exceptional measure, the Government agreed that asylum seekers who applied for asylum before 26 July 1999 and were awaiting a final decision on their application for refugee status, would be allowed to work once they were in the country for more than twelve months. This arrangement does not apply to persons who applied for asylum after 26 July 1999.

⁵ "Programme refugees" refers to groups of refugees from a number of countries such as Bosnia and Vietnam who came to Ireland on the invitation of the Irish authorities.

46. Many schools in Ireland are de facto denominational (to a large extent Catholic), and ECRI noted in its first report that this situation called for a particular attention to be paid to the needs of students of minority faiths. Although such pupils are not obliged to attend religious education, ECRI is of the opinion that the issue of providing alternative religious education or a form of religious education which embraces all faiths needs to be considered. ECRI also notes with concern reports that some Muslim girls wearing headscarves have been refused entry to certain schools, and stresses that such forms of discrimination should not be allowed to occur.

- ***Language training for adults***

47. The Refugee Language Support Unit (RLSU) was set up by the Department of Education under the aegis of Trinity College Dublin. On the basis of research into the English language needs of refugees, it has developed an employment-oriented language training programme and directs adult refugees to appropriate courses as well as delivering language training itself.

I. Employment

48. Ireland is currently enjoying a booming economic climate with high employment levels, and many workers are in fact being recruited from abroad to enter all levels of the labour market. In 2000, 18 000 work permits were issued to non-EEA nationals, coming from 120 different countries, compared to 6000 the previous year. Work permits are issued to companies, who can then recruit workers from any country they wish.
49. This economic migration into Ireland poses a number of new challenges. Firstly, ECRI considers that the growing numbers of non-Irish workers in all areas of the labour market calls for particular attention to be paid to workplace-related racism and discrimination, which permeates the labour market, both as regards professional workers, such as doctors, and unskilled workers, particularly working in the black market economy. In this respect, the effective implementation of the Employment Equality Act is of great importance. Within society in general, awareness-raising measures concerning the contribution made by non-Irish workers to the Irish economy and society are also vital, since members of the public will be coming into contact with such workers in all fields of life, including the private service industries but also public services such as the health service.
50. Concern has also been expressed that the current system of work permits may be too inflexible to cover the range of situations of non-citizens seeking employment in Ireland. For example, work permits are only issued for one year, and non-citizen workers employed in Ireland and coming from countries for which visas are required to enter Ireland may only bring their families after one year (except in the case of certain highly-skilled groups), on condition that they are able to support themselves without recourse to State assistance. ECRI feels that more attention needs to be paid to non-citizen workers as members of Irish society rather than just as economic entities, and that measures should be taken which reflect this approach, such as, for example, the introduction of a wider range of work permit types to meet different situations, and wider possibilities for family reunification.

51. The issue of employment as regards asylum seekers and as regards members of the Traveller Community is discussed in other sections of this report.

J. Vulnerable groups

This section covers certain minority groups which may be particularly vulnerable to problems of racism, discrimination and intolerance in the country in question. It is not intended to provide an exhaustive overview of the situation of all minority groups in the country, nor to imply that groups not mentioned face no problems of racism and discrimination.

- ***Members of the Traveller Community***

52. See "Issues of particular concern", below

- ***Muslim Community***

53. There is today a 12,000-strong Muslim minority living in Ireland, many of whom have arrived as asylum seekers. The Muslim community is well-organised, with a number of mosques, schools and societies. Some concerns have been expressed among the Muslim community that the plan of dispersal of asylum seekers throughout Ireland may endanger the integrating strength of the community.

54. Members of the Muslim community are faced with prejudice and discrimination on the basis of their religion. There have been cases of the refusal of service, harassment and even one case in which a mosque was firebombed. It has also been reported that Muslim girls wearing the hijab have been refused entry in schools (see Access to education above). ECRI notes once more that discrimination and harassment on the basis of religion are covered by the Equal Status Act and draws attention to its general policy recommendation on combating intolerance and discrimination against Muslims. It considers in particular that measures should be taken to increase understanding among the majority of the Muslim community and of the Islamic faith, both through school education (see Access to education, above) and within the general public.

- ***Visible minority groups***

55. ECRI is deeply concerned to learn of reports that members of visible minority groups frequently face discrimination and harassment, including refusal of entry to pubs and other public places, refusal of accommodation, and incidents of verbal harassment and even physical attacks on the streets. There is a tendency to perceive all members of such minorities as asylum seekers and to treat them in a negative fashion as a result, and to reject the concept that a person might be both black and Irish. Again, ECRI stresses the need for the effective implementation of the legislation in force to combat such manifestations, coupled with further awareness-raising among the general public.

K. Conduct of certain institutions

- Law Enforcement Officials

56. The national police force (Garda Siochana) has acknowledged the need to adapt to the reality of Ireland as a multicultural society, and has taken several initiatives in this respect, including the organisation of conferences on issues of racism and intolerance in relation to policing, and the creation of a national Garda Racial and Intercultural Office with responsibility for co-ordinating, monitoring and advising on all aspects of policing in this area.
57. Police officers are provided with race-relations oriented training during their initial two year training. There have been reports of discriminatory behaviour towards members of minority groups, including raids on Traveller sites on suspicion of criminal activity, and ill-treatment of black detainees. Complaints against police officers are investigated by a board which relies on police resources to carry out investigations into complaints. In this respect, ECRI recommends the establishment of an investigation mechanism entirely independent from the police force structures, and notes that the authorities are currently considering a range of proposals to address this issue.
58. Members of the Garda are also responsible for border controls and deportations. In the light of the increase in immigration into Ireland and the particular skills needed for officers working in this area, ECRI considers that officers working in this field should be provided with additional training focused on their area of responsibility, and that it might be opportune to establish a specific body of border control officials. ECRI notes that the Garda National Immigration Bureau was established in May 2000 with responsibility for police officers working in the immigration field.
59. At present there are only two black police officers in Ireland; however, there will certainly be more scope for recruitment amongst minority groups with the increase in immigration. ECRI encourages the authorities to promote recruitment of police officers among minority groups and notes that attention has already been paid to the issue of removing possible discriminatory barriers in the entrance requirements. ECRI also feels that steps might be taken to promote the recruitment of members of the Traveller community into the police force.

L. Monitoring of the situation

60. A general lack of reliable data concerning the situation of minority groups and the incidence of racism and discrimination in Ireland is frequently cited as an obstacle to evaluating the situation and developing targeted policies and strategies. For example, the census contains no question pertaining to ethnic origin, although there is a question pertaining to membership of the Traveller Community. ECRI encourages the Irish authorities to establish a reliable and extensive system of data collection concerning the situation of minority groups in all fields of life, including education, employment, accommodation and health. Such a system should be developed in close collaboration with the communities concerned and paying due respect to the principles of confidentiality and the voluntary self-identification and communication of personal data on the part of the persons in question.

61. A second major gap is the lack of information concerning the incidence of racist and discriminatory acts in Ireland. ECRI hopes that the new equality infrastructures will enable the extent and types of discrimination in Irish society to be evaluated and monitored. Currently, the police do not record the possible racist element of crimes in a systematic fashion, partly due to the lack of legislation defining crimes as racist. ECRI urges the police authorities to put in place a systematic and country-wide system of data collection concerning racist crimes as swiftly as possible.
62. ECRI notes with interest the introduction of a voluntary pilot scheme of equality proofing, involving government, employers and social partners, in which legislation and practices are reviewed to test their possible discriminatory impact.

M. Media

63. Although some media report widely and in a responsible fashion on issues of racism and intolerance, and concerning minority groups, others have tended to adopt a very negative attitude, particularly towards asylum seekers and refugees and towards members of the Traveller Community. A particular problem which has been noted is the use of radio phone-in programmes by members of the public as a platform for airing prejudices and racist views, which apparently are not sufficiently countered by the programme presenters. Noting that such reporting fuels public prejudices and misconceptions, ECRI urges the media professions to apply codes of self-regulation.

SECTION II: ISSUES OF PARTICULAR CONCERN

In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues which in its opinion merit particular and urgent attention in the country in question. In the case of Ireland, ECRI would like to draw attention to the situation of the Traveller Community and to the need for increased awareness-raising concerning issues of racism and discrimination.

N. Traveller Community

64. Although issues of racism and intolerance are seen as a relatively new phenomenon in Ireland and have come to the forefront of public debate in Ireland recently in relation to the presence of new minority groups in the country, such as refugees and asylum seekers, the Traveller Community, as an indigenous minority group⁶, has always suffered disadvantage and discrimination in all fields of life, including education, employment, and access to public and private services. Travellers are commonly denied access to public services such as hotels, restaurants and pubs, and are also victims of violence and harassment, including arson attacks against their property.
65. An important step forward in the approach to tackling the range of disadvantages and discriminations faced by the Traveller Community was the report of the Task Force on the Traveller Community of 1995, which was followed by a Progress Report on the implementation of the recommendations of the Task Force, submitted to the

⁶ *The Traveller Community is termed an indigenous minority by the Irish authorities and the Community itself*

Government in December 2000. This revealed that improvements on the ground in the position of Travellers since the report have been disappointing. Some of the issues involved are examined in more detail below.

- **Education**

66. Traveller children have in the past faced extreme marginalisation as regards access to education in Ireland, often being entirely excluded from the school system, placed in segregated classes, or dropping out of the system early. In recent years, debate and actions have focused on the numbers of Traveller children participating in schools, with the result that most – although not all - Traveller children now attend primary school. There has also been an increase in numbers of Traveller children transferring to secondary school although very few remain until the final year of schooling and only 20 Travellers are currently engaged in tertiary education. A scheme of “visiting teachers” who liaise with families has contributed to raising attendance levels, as has the increased awareness and mobilisation of the Traveller community itself. The system of segregated classes has now been dropped and Traveller children attend mainstream classes, with additional teachers provided to support them, although some concern has been expressed that the system of withdrawing Traveller children from classes in order to provide this extra support may lead to de facto segregation.
67. ECRI encourages the Irish authorities to continue to devote particular attention and resources to the area of education for Traveller children, in close collaboration with representatives of the community itself, and on the basis of a review of the current use of resources allocated to this area. In particular, ECRI stresses the need to ensure that teachers providing education for Traveller children receive appropriate training and guidance, particularly since there are no teachers from the Traveller community itself due to the qualifications required. In this respect, ECRI urges the Irish authorities to identify ways of promoting access to the teaching profession for members of the Traveller community and to consider as a short-term solution the possibility of recruiting members of the Traveller community as auxiliary teachers, stressing the positive role that such staff could play in enabling Traveller children to feel that their culture and background is represented in the school system. Moreover, ECRI feels that further efforts should be made to include material on the Traveller Community as an integral part of Irish society throughout school textbooks and other teaching aids.

- **Employment**

68. The Traveller Community is excluded to a large extent from the labour market, with a rate of around 90% unemployment – much of this long-term unemployment - within the community. This can partly be explained by the decline of traditional areas of economic activity and employment, such as scrap metal recycling, horse-trading and market trading, due to the changing economic climate exacerbated by restrictive legislation in certain areas and the lack of provision of work space beside accommodation space. Travellers have not, however, found easy access to the general labour market despite the economic boom mentioned above. It has been reported that direct discrimination is widespread, to the extent that even when Travellers are referred to employers by employment offices, they are refused work. Travellers also face indirect forms of discrimination in entering the labour market due to disadvantages in other areas of life including education, health and accommodation. Another barrier to Traveller employment which has been mentioned

is the possible loss of the medical card (entitlement to free medical care) upon entry into employment, which acts as a major disincentive to Travellers seeking employment⁷.

69. ECRI notes that the Task Force on the Travelling Community Report of 1995 made a number of recommendations in the field of advancing Traveller employment, but is concerned that sufficient progress has not been made in implementing these proposals. ECRI urges the Irish authorities to take steps to implement the Task Force recommendations in the field of employment without delay. ECRI also stresses the importance of reliable and accurate data in developing a targeted and pro-active strategy and recommends that a system of information-collecting and research be initiated to analyse the problem of unemployment within this community, with full respect paid to confidentiality and the voluntary self-identification and communication of personal data on the part of the persons concerned. ECRI moreover urges the Irish authorities to take positive measures to promote employment and income generation among the Traveller community, such as ensuring continued access to the free medical card for Travellers entering employment until they have reached a certain level of income and job security.
70. ECRI also notes that the curtailment of the Government Community Employment Programme, in the light of the drastic reduction in unemployment in Ireland, has meant that funding which allowed Travellers to take up “apprentice” community work roles within their community is no longer available. ECRI stresses the importance of such opportunities as a means of empowering both individual Travellers to enter professional work and the Traveller community as a whole to participate in measures aimed at it, and feels that such possibilities for enabling Travellers to work within areas such as education, accommodation and health provision for their community should be continued.

- **Accommodation**

71. The Housing (Traveller Accommodation) Act 1998 requires the major local authorities to prepare, adopt and implement five year Traveller accommodation programmes; it provides for consultation mechanisms with Travellers and Traveller organisations at national and local level and provides local authorities with increased powers of eviction from unauthorised Traveller encampments. Despite some delays, each local authority required to do so adopted a Traveller accommodation programme for the period 2000-2004, most by the deadline of 31 March 2000. However, Traveller organisations have reported that despite this framework, the situation at local level as regards accommodation provision has not improved, such that whereas in 1995 1112 Traveller families were living on the roadside with no access to basic services, this number had increased to 1207 families in 1999. The annual count of Traveller families living on the roadside which was undertaken by each major local authority in November 2000 gave a figure of 1093 families.
72. One of the main barriers to improvement of the situation as regards accommodation is reported to be the unwillingness of local authorities to provide accommodation and resistance and hostility among local communities to planned developments, often resulting in injunctions and court cases. In this respect, it has been commented that the fact that no sanctions are provided for in the Housing (Traveller Accommodation)

⁷ *The retention of medical card eligibility is approved for a period of three years when the person or the spouse of a person who has been unemployed for a minimum of one year takes up employment.*

Act against authorities who do not take measures to provide accommodation for Travellers may weaken its effectiveness. ECRI recommends that the situation as regards provision of accommodation should be closely monitored and measures taken as necessary to improve the implementation of the legislation in force. Furthermore, ECRI stresses that the powers afforded to local authorities to effect evictions from unauthorised campsites should be kept under close review in order to ensure that such powers are not misused, particularly in a situation where the accommodation possibilities available for Traveller families are not sufficient to meet the needs of this community.

- **Health**

73. Although the data available are not extensive, the most recent statistics (1987) show that Travellers experience significantly worse health than the majority population, with a life expectancy of 10-12 years less and infant mortality rates two and a half times higher than the settled population. It is likely that the poor living conditions faced by many Travellers coupled with difficulties experienced in accessing health care are explanatory factors for this discrepancy. For example, it appears that many doctors are unwilling to accept Travellers as patients in their practices, and that basic preventative health care programmes such as vaccinations are not consistently carried out.
74. Although some improvements in this field have been made, such as the development of primary health care courses, the establishment of a National Traveller Health Advisory Committee and the establishment of Traveller Health Units in each Health Board, the authorities have not yet fulfilled a long-standing commitment to publish and implement a Traveller Health Strategy. ECRI encourages the authorities to move ahead with the publication and implementation of such a Strategy, in close co-operation with representatives of the Traveller Community, as swiftly as possible. ECRI also recommends that a system of data collection and research into the problems faced by Travellers in the field of health be initiated, paying due respect to the principle of confidentiality and the voluntary self-identification and communication of personal data on the part of persons concerned.

- **Empowerment**

75. In its first report ECRI expressed its concern about the difficulties Travellers face in participating in public life, as the electoral process requires registration according to a permanent address or ordinary residence, which may exclude Travellers. The Department of the Environment and Local Government has advised local authorities, in preparing the register of electors, to contact those sections of the authorities and urban district councils in their areas which have responsibility for Traveller accommodation or any other matter concerning Traveller affairs with a view to ensuring that as many as possible of eligible Travellers are included in the register. The memorandum issued by the Department to registration authorities also draws attention to the choice of registration address where more than one address is relevant. ECRI urges the authorities to monitor the efficacy of these measures.
76. ECRI notes that while the Traveller community as a whole faces considerable disadvantage and discrimination, some groups within the community may be particularly vulnerable to exclusion and racism. For example, it will often in practice be Traveller women who deal on an everyday basis with health, education and social services. Traveller women have also reported that they face discrimination in

accessing child-minding facilities which in turn impacts upon their ability to access education, training, and employment. It has also been reported that the needs of disabled Travellers are not taken into account, for example as regards accommodation provision or the provision of culturally-appropriate residential care; ECRI stresses the need to take into account the diversity within the Traveller Community in any measures initiated.

O. Awareness-raising

77. It is only in the last few years that there has begun to be a recognition of Ireland as a multicultural society, in which problems of racism and discrimination may exist and develop. This growing recognition has been triggered by the transformation of Ireland into a country of immigration, both as a result of economic migration and as a result of the significant increase in numbers of refugees and asylum seekers entering the country.
78. The presence of these “new” minority groups has revealed a certain level of prejudice and intolerance within Irish society towards those who are different from the majority. ECRI feels that a priority area in Ireland today is to continue to raise awareness among the general population of Ireland as a multicultural society and of the dangers of racism and intolerance. ECRI considers in particular that it is important to raise awareness of the new legislation and infrastructures in force. It also feels that the links between intolerance towards newcomers and long-standing intolerance towards the Traveller Community should be stressed, particularly since it appears that the latter community is often perceived as being responsible for negative attitudes towards it.
79. As noted above, the introduction of the policy of dispersing asylum seekers throughout the country initially led to a wave of hostile reactions on the part of some local communities and certain media. Although this hostility has now died down, there are still concerns that some segments of the media tend to portray asylum seekers and refugees in a negative fashion. While most political parties have avoided using overtly racist arguments, it has been commented that some of their political discourse concerning refugees and asylum seekers and the use of terms such as “bogus asylum-seekers” tends to undermine the range of initiatives underway to combat racism. ECRI stresses that politicians have a responsibility to speak out firmly against manifestations of hostility and xenophobia, but also to avoid using terms or discourse which may have negative connotations in the public consciousness.
80. ECRI notes with interest the inauguration in March 2001 of a three-year public awareness programme to address racism and to promote a more open and intercultural society. This programme, based on an evaluation prepared by the NCCRI, will focus on the media and communications, education, community and local development, political parties and other elements such as the workplace, policing, sport and the role of religious organisations, with an approach based on partnership. ECRI hopes that a high political priority will continue to be given to this campaign throughout its duration.

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