



# Responding to racism in Ireland



european network against racism

## OVERVIEW OF RACISM IN THE NATIONAL CONTEXT

There has been a broadening of cultural diversity in Ireland in recent years and the next Census will outline the extent of that diversity with an ethnicity question being included for the first time. Anti-racism and the promotion of interculturalism only became a prominent and significant public policy issue in the late 1990s despite campaigning of NGOs.

Redress against discrimination has only recently become a feature of Irish law. The employment equality legislation was enacted in 1998 while equality in the provision of goods and services was introduced in 2000 with the establishment of the Equality Tribunal and Equality Authority, two bodies to oversee the legislation.

In 2005 the Irish Government launched Planning for Diversity: the National Action Plan Against Racism (NAPAR) 2005-2008, which is to act as the blueprint for Irish policy makers in the fight against all forms of racism. This important policy document is the result of the Irish Government's commitment to the Third UN World Conference Against Racism in Durban 2001. The intercultural framework of NAPAR includes a focus on:

- Protection: Effective protection and redress against racism
- Provision: Accommodating diversity in service provision
- Inclusion: Economic inclusion and equality of opportunity
- Recognition: Recognition and awareness of diversity
- Participation: Full participation in Irish society.

In 2000 the Irish Government ratified the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD) and Ireland's first and second report under CERD was examined by the CERD Committee in March 2005. The CERD Committee made a series of recommendations to the Irish Government available at

[www.ohchr.org/english/bodies/cerd/docs/CERD.C.IRL.CO.2.pdf](http://www.ohchr.org/english/bodies/cerd/docs/CERD.C.IRL.CO.2.pdf)

## OVERVIEW OF THE IRISH NATIONAL CO-ORDINATION

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The European Network Against Racism (ENAR) Ireland is a national network of anti-racist NGOs, which aims to work collectively to highlight and address the issue of racism in Ireland through the promotion and monitoring of EU and global anti-racist initiatives. ENAR Ireland is the Irish National Coordination for the European Network Against Racism (ENAR) based in Brussels.

Current member organizations include Pavee Point Travellers' Centre, Migrant Rights Centre Ireland, the Immigrant Council of Ireland, the Irish Refugee Council, the Community Workers Co-operative, Cairde, Comhlámh and the National Women's Council of Ireland.

Key Activities of ENAR Ireland:

- Information dissemination at national level on EU and international UN anti-racist initiatives
- Organisation of information seminars and events on current and emerging issues relating to anti-racism work
- Representation on the board of the European Network Against Racism
- Development and dissemination of briefing papers and updates including an annual shadow report on Ireland.

## OVERVIEW OF EUROPEAN NETWORK AGAINST RACISM

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ENAR promotes the cause of anti-racism and equal treatment for ethnic minorities and non-EU nationals residing in the European Union.

ENAR is a network of European NGOs working to combat racism in all EU Member States. The NGOs have formed National Coordinations (NCs), which constitute the membership of ENAR and include ethnic minorities, immigrants' associations, information centres, advocacy groups, trade unions, faith based organisations and many others. Democratically elected representatives of each NC attend the Network's meetings where they are consulted on policy and statutory issues. One of the representatives of each NC should belong to an ethnic minority.

ENAR is determined to fight racism, xenophobia, anti-Semitism and Islamophobia, to promote equality of treatment between EU citizens and third country nationals, and to link local/regional/national initiatives with European initiatives.

## THE NATIONAL SITUATION: GROUPS EXPERIENCING RACISM IN IRELAND

Racism takes different forms and impacts on a range of groups in Ireland including:

- The Traveller and Roma Community with their distinct ethnic identity
- Recent migrants including labour migrants, refugees and asylum seekers
- International students and tourists/visitors
- The Jewish and Muslim communities in the form of anti-Semitism and Islamophobia
- Black and minority ethnic groups irrespective of their status experience racism on the basis of their skin colour, ethnic or national identity.

Manifestations of racism can include:

- Discrimination in employment and in the provision of goods and services
- Assaults, threatening behaviour and incitement to hatred
- Institutional forms of racism – the failure of public services to accommodate diversity through lack of thought or planning
- Labelling of minority ethnic groups which can occur through racism on the internet or through media / advertising.
- The intersection of racism with other forms of discrimination including gender.

## POLITICAL REALITY: NATIONAL LAWS AGAINST RACISM

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The key pieces of equality legislation are the Employment Equality Acts, 1998 and 2004 and the Equal Status Acts, 2000 and 2004. They outlaw discrimination in employment, vocational training, advertising, collective agreements, the provision of goods and services and other opportunities to which the public generally have access on nine distinct grounds: gender; marital status; family status; age; disability; race; sexual orientation; religious belief; and membership of the Traveller Community.

The EU Race Directive was incorporated by the Equality Act 2004 with minor changes to the existing equality legislation. The legislation could be enhanced to provide greater protection against discrimination. For example, current sanctions are not effective, dissuasive or proportionate as there is a ceiling on the amount of compensation that can be awarded. In addition certain state services do not fall under the equality legislation.

A racist incident is any incident which is perceived to be racially motivated by the victim, a member of An Garda Síochána (police force), a person who was present and who witnessed the incident or a person acting on behalf of the victim. A victim of a racist incident can avail of criminal legislation against perpetrators including the Criminal Justice (Public Order) Act 1994 and Non-Fatal Offences Against the Person Act 1997. Research into hate crime is currently underway with a focus on the possibility of introducing aggravated sentencing for crimes motivated by racism.

The Prohibition of Incitement to Hatred Act 1989 prohibits any advocacy of racial hatred that constitutes incitement to hatred, hostility or violence against a group of persons in the State on account of their race, colour, nationality, religion ethnic or national origin, membership of the Travelling community or sexual orientation. There have been few prosecutions under this Act and the legislation has been under review to determine its effectiveness since 2000. This review must be completed as a matter of urgency and take into account cybercrime and emerging policy at EU level.

## IMPORTANCE OF THE CIVIL SOCIETY INFRASTRUCTURE

It has been widely acknowledged (including in the Irish National Plan Against Racism) that the implementation of an effective anti-racist policy requires the active participation of civil society. Civil society includes the community and voluntary sector, social partners and minority led organizations. Resourcing and support for groups is crucial to facilitate the participation of minority ethnic groups in a wide range of consultative mechanisms so as to influence policy agendas. Helpful bodies include:

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

The NCCRI is an independent expert body which brings together government and non-government organisations to develop an inclusive and strategic approach to combat racism by focusing on its prevention and promoting an intercultural society.

### **Irish Human Rights Commission**

Irish Human Rights Commission is charged with the protection of individual human rights and this includes breaches of human rights as a result of racism. It has a casework function where it can conduct enquiries, subject to certain conditions; offer its expertise to the courts in suitable cases as a friend of the court and take legal proceedings to vindicate human rights in the State.

### **Other Bodies**

There are many examples of civil society organizations with a strong anti-racism focus at local and national level (see end of leaflet for a list of some agencies). These complement the statutory equality infrastructure comprising of Equality Tribunal and Equality Authority. ENAR Ireland has a key role to play as an umbrella body for organizations interested in combating racism and promoting interculturalism. An example of one organization whose core function is anti-racism is:

### **Residents Against Racism**

Residents Against Racism is a network of community groups whose objective is to support and defend victims of racist harassment.

[www.residentsagainstracism.org](http://www.residentsagainstracism.org)

## RESPONDING TO RACISM: STRATEGIC LITIGATION

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Many anti-racist NGOs have not traditionally engaged in legal processes, often this is for the simple reason that there was little law for them to refer to. However the adoption of the EU Race Directive (see section 'EU and anti-racism') and the development of national law, means that now more than ever litigation has the potential to lead to real change for those who are vulnerable to racism and discrimination.

As anti-discrimination is a relatively new field of law, NGOs have a role to play in raising awareness regarding its potential. Consequently the strategic litigation has come to the fore as a useful advocacy technique. NGOs can both directly engage in strategic litigation and support others to do so by gathering data, assessing victims and engaging in advocacy.

“Strategic or impact litigation uses the court system to attempt to create broad social change”

The primary focus of strategic litigation is law or policy change rather than redress for an individual, though these two objectives are not mutually exclusive. Strategic litigation intends to reach beyond an individual case or victim, to create a context of enhanced protection for everyone who is vulnerable to discrimination. By changing law or setting precedents an individual case can have a ripple effect leading to change on a much broader level.

The concept of strategic litigation encompasses the selection of cases, case planning and management, as well as ensuring that favourable outcomes are implemented.

Not every NGO has the mandate or skills to engage in litigation, nor will litigation necessarily be the right strategy in many cases. Nonetheless, it is essential for all anti-racism actors to recognise the importance of strategic litigation as a tool for generating change.

## SERVICES AVAILABLE TO VICTIMS OF RACIAL DISCRIMINATION

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The Equality Authority (EA) has a statutory mandate of working towards the elimination of discrimination and promoting equality of opportunity. The EA may at its discretion, where the case has strategic importance, provide legal assistance to people who wish to bring a claim. [www.equality.ie](http://www.equality.ie)

The Equality Tribunal (ET) is an independent quasi-judicial statutory body which investigates certain complaints arising from the equality legislation. The ET appoints Equality officers to hear and decide claims of discrimination in employment and in the provision of goods and services. Equality officers can also mediate in disputes. If mediation is not an option, the equality officer will consider all evidence and issue a legally binding decision, which is enforceable through the Circuit Court. In respect of allegations of discrimination against licensed premises, claims cannot be brought before the Equality Tribunal but must be directed to the District court.

[www.equalitytribunal.ie](http://www.equalitytribunal.ie)

For assaults, verbal abuse, damage to property or dissemination of material that may have the potential to incite hatred, contact your local Garda station or the Garda Racial and Intercultural Office. They also have a list of Ethnic Liaison Officers located around the country: [www.garda.ie/angarda/racial.html](http://www.garda.ie/angarda/racial.html)

For circulars, manifestos, articles or broadcasts in the media which are considered offensive to minority ethnic groups, you can complain to the Broadcasting Complaints Commission ([www.bcc.ie](http://www.bcc.ie)) or the National Newspapers of Ireland Readers Representative system ([www.nni.ie](http://www.nni.ie)). Forthcoming defamation legislation will provide for a Press Council where individuals can make complaints about the print media.

The Internet Public Hotline provides an anonymous reporting service if racism is encountered via websites and emails ([www.hotline.ie](http://www.hotline.ie)). If an advertisement is perceived to be racist, complaints can be made to the Advertising Standards Authority for Ireland ([www.asai.ie](http://www.asai.ie)).

The NCCRI has an independent racist incident monitoring system. To make a complaint, download a complaint form from [www.nccri.ie](http://www.nccri.ie)

## EU AND ANTI-RACISM : WHY A EUROPEAN PERSPECTIVE IS CRUCIAL


National NGOs working on anti-racism are already seriously overburdened in their work to confront racism and discrimination. Why then should they also be concerned with what is going on in other European countries, and in the institutions of the European Union itself?

Developing an understanding of racism in Europe is essential for two key reasons. Firstly, to promote learning and knowledge about what racism is and how to combat it and secondly to generate common tools across the European Union to combat racism. Experience over the last ten years has demonstrated that national governments can be convinced to take action at a European level, where they may not have been prepared to move forward alone.

Racism has a distinctly European dynamic. Europe's colonial history underlines its role in fostering both historical and contemporary forms of racism; and the 20th century does not cast a positive light on the European legacy. Despite this long history Europe began to take racism seriously relatively recently. Europe has a responsibility both to the people living within its borders, as well as internationally to take a leading role in promoting a vision of a world free from racism.

In 1997, Article 13 of the Amsterdam Treaty gave the European Union a legal base on which to develop 'appropriate measures to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation'. Using these powers the European Union adopted the Race Equality Directive in June 2000 (and later that year the Employment Equality Directive).

While the Race Directive was due to be fully implemented by July 2003, at the beginning of 2006 some Member States have failed to implement it. This reality raises questions about the continuing commitment of EU Member States to combat racism and discrimination. However the Directive does have direct effect, which means that individuals can assert it before national courts, even where it has not been implemented.



The Race Directive gives protection against discrimination in employment and access to a range of goods and services, including social protection, health, social security and education. It puts forward a number of important definitions including: direct and indirect discrimination, harassment, and victimisation. Other significant aspects of the Directive are that it allows for positive action measures, the sharing of the burden of proof, and the establishment of equality bodies.

The principles enshrined in the Race Directive need to become core elements of anti-discrimination law and practice across the European Union. Strategic litigation is a tool to ensure that this happens. To this end, it expressly allows for NGOs to engage in proceedings in support of or on behalf of victims.

While Article 13 of the Amsterdam Treaty provided the context for developments in the field of anti-discrimination, Article 29 of the Treaty on European Union included reference to preventing and combating racism. While the European Commission proposed a Framework Decision against racism and xenophobia (racism as a crime) in 2001, developments in this policy area have been disappointing; the Council has failed to adopt the Framework Decision. In addition the European Union has competence in other policy areas that either directly or indirectly impact on the fight against racism, including: social inclusion, migration and asylum, and education.

The European Union is also involved in a range of other activities, including awareness raising (through the 'For Diversity. Against Discrimination' campaign) and funding of anti-racism projects. In 1997 the EU Monitoring Centre on Racism and Xenophobia (EUMC) was established. While the Centre is likely to be expanded to become a Fundamental Rights Agency in 2007, it will continue to focus on the problem of racism in Europe.

## KEY LINKS AND SOURCES OF FURTHER INFORMATION AT NATIONAL LEVEL

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Cairde: [www.cairde.ie](http://www.cairde.ie)

Comhlamh: [www.comhlamh.org](http://www.comhlamh.org)

Community Workers Co-op: [www.cwc.ie](http://www.cwc.ie)

Department of Enterprise, Trade and Employment: [www.entemp.ie](http://www.entemp.ie)

Department of Justice, Equality and Law Reform: [www.justice.ie](http://www.justice.ie)

Emigrant Advice: [www.emigrantadvice.ie](http://www.emigrantadvice.ie)

Equality Authority: [www.equality.ie](http://www.equality.ie)

Equality Tribunal: [www.equalitytribunal.ie](http://www.equalitytribunal.ie)

Immigrant Council of Ireland: [www.immigrantcouncil.ie](http://www.immigrantcouncil.ie)

Integrating Ireland: [www.integratingireland.ie](http://www.integratingireland.ie)

Irish Human Rights Commission: [www.ihrc.ie](http://www.ihrc.ie)

Irish Refugee Council [www.irishrefugeecouncil.ie](http://www.irishrefugeecouncil.ie)

Irish Travellers Movement: [www.itmtrav.com](http://www.itmtrav.com)

Migrant Rights Centre Ireland: [www.mrci.ie](http://www.mrci.ie)

National Action Plan Against Racism: [www.diversityireland.ie](http://www.diversityireland.ie)

National Consultative Committee on Racism and Interculturalism:  
[www.nccri.ie](http://www.nccri.ie)

An information handbook on how to seek advice and redress against racism in Ireland is available at [www.nccri.ie](http://www.nccri.ie).

National Women's Council of Ireland: [www.nwci.ie](http://www.nwci.ie)

Pavee Point Travellers Centre: [www.paveepoint.ie](http://www.paveepoint.ie)

Reception and Integration Agency: [www.ria.gov.ie](http://www.ria.gov.ie)

## KEY LINKS AND SOURCES OF FURTHER INFORMATION AT EUROPEAN LEVEL

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EU Monitoring Centre on Racism and Xenophobia : [www.eumc.eu.int](http://www.eumc.eu.int)

European Commission - anti-discrimination and relations with civil society:  
[www.europa.eu.int/comm/employment\\_social/fundamental\\_rights/index\\_en.htm](http://www.europa.eu.int/comm/employment_social/fundamental_rights/index_en.htm)

European Network Against Racism (ENAR): [www.enar-eu.org](http://www.enar-eu.org)

European Roma Information Office: [www.erionet.org](http://www.erionet.org)

European Union: [www.europa.eu.int](http://www.europa.eu.int)

'For Diversity. Against Discrimination': [www.stop-discrimination.info](http://www.stop-discrimination.info)

Strategic Litigation of Race Discrimination in Europe: from Principles to Practice:  
[www.migpolgroup.com/documents/2498.html](http://www.migpolgroup.com/documents/2498.html)

Strategies on Litigation Tackling Discrimination in EU Countries: [www.solid-eu.org](http://www.solid-eu.org)

## **ENAR – Ireland**

c/o Migrant Rights Centre Ireland  
55 Parnell Square West, Dublin 1.  
Tel.: 00 353 1 889 7570  
Fax: 00 353 1 889 7579  
Email: [info@mrci.ie](mailto:info@mrci.ie)

This leaflet was prepared on behalf of ENAR in Ireland and by the ENAR European secretariat. Download this leaflet: [http://www.enar-eu.org/en/publication/national\\_leaflets/](http://www.enar-eu.org/en/publication/national_leaflets/)

## **ENAR**

43, Rue de la Charité • B-1210 Brussels • Belgium  
Tel.: +32 (0)2 229 3570 • Fax: +32 (0)2 229 3575  
Email: [info@enar-eu.org](mailto:info@enar-eu.org) • Web: [www.enar-eu.org](http://www.enar-eu.org)



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