

EQUALITY & RIGHTS ALLIANCE

Ireland
Can't
Afford
Cutbacks
in Equality
and Rights

Briefing note to ECRI and the European Framework
Convention on National Minorities, in advance of visit to
Ireland Feb 27th to March 3rd 2011

Submitted by

Equality and Rights Alliance

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About Equality & Rights Alliance

Equality & Rights Alliance (ERA) is an Irish coalition of 172 civil society groups, activists and academics established in August 2008 in response to the previous government's undermining of the statutory equality, human rights, anti-racism and anti-poverty infrastructure in Ireland¹. ERA remit is to defend and strengthen the Irish equality and human rights infrastructure.

Scope of this briefing note

In accordance with ERA's remit, this briefing note is focused on the current situation in Ireland regarding the statutory equality, anti-racism and human rights specialized bodies.

ECRI third report on Ireland and the current context

ECRI's third report on Ireland was conducted in 2007. Since that time a series of significant budget cuts have been imposed on the Irish statutory infrastructure to address inequality, racism, discrimination and human rights concerns. As a result, the institutional framework to promote equality and human rights and address racism has been severely diminished. ERA believes that these cuts are contrary to *ECRI General Policy Recommendation No. 2 on Specialised Bodies to Combat Racism, Xenophobia, Anti-Semitism and Intolerance at National Level* (Adopted 13th June 1997). Below we have set out the current situation in regard to the operation of the statutory equality, anti-racism and human rights infrastructure in Ireland.

G. SPECIALISED BODIES AND OTHER INSTITUTIONS

(13). ECRI recommends 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. (page 15 – I.41)

And:

(17). ECRI recommends 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 recommends that the authorities ensure that members of minority groups are included among this body's staff. (page 17 – I.51)

Irish Government Response²:

"The Government has recently undertaken to merge the Irish Human Rights Commission and the Equality Authority to form a new strengthened Human Rights and Equality Commission. The Government is determined that the new body will be able to build on the work of the Commission and Authority in advancing the Human Rights and Equality

¹ ERA members include: 84 NGOs (national and locally based NGOs working across a broad range of equality and human rights issues); individual activists; 7 trade unions; and a number of academics and public representatives. A full list of current NGO members is available on our web page www.eracampaign.org/members-1.

² Information on the follow-up to the recommendations in ECRI's Third Report on Ireland and information on new developments'. 5th/ 12/2011, Office for the Promotion of Migrant Integration,

agendas. Funding will be provided to enable the new Human Rights and Equality Commission to function effectively and independently, and fully in accordance with the Paris Principles”³

ERA Response:

In its 2009 budget, the previous government implemented a series of punishing budget cuts to the institutions established to promote equality, prevent discrimination and racism and protect human rights. This involved:

- 100% funding cut to the National Consultative Committee for Racism and Interculturalism (which led to its closure in December 2008);
- 32% funding cut to the Irish Human Rights Commission (IHRC); and
- 43% cut to the Equality Authority.

Since then, the cumulative budget cuts to the Equality Authority and the IHRC amount to 49% and 40% respectively. In addition staffing levels in both bodies have been seriously reduced: the Equality Authority from 58 to 35; and the IHRC from 17 to 9.⁴

The impact of these cuts has been to severely diminish the effective functioning of both bodies to discharge on their functions. Yet, in this context, the Minister for Justice, Equality and Defence has given assurances that the merger of the Equality Authority and the IHRC will result in a unified body that will *“more effectively, efficiently and cohesively champion human rights and equality and to achieve a culture of respect for human rights and equality”*. While we welcome this assurance, nonetheless, it is difficult to discern how the merging of two severely eviscerated entities will result in a more effectively functioning new body without assurance of additional funding and staffing.

ERA is about to initiate a campaign urging the Minister for Justice, Equality and Defence to ensure that a number of minimum standards are established to ensure the effective and independent functioning of the newly merged Human Rights and Equality Commission (HREC). These are:

1. The HREC must retain the powers and functions of the former Equality Authority and the Irish Human Rights Commission. There must be a levelling-up of powers currently available to promote equality with those available to protect human rights
2. The HREC must have sufficient staffing and financial resources to carry out all of its powers effectively
3. The legislation to establish the HREC must introduce a Positive Duty on public sector bodies to realise the commitment in the Programme for Government that the public sector will *“take due note of equality and human rights in carrying out their functions”*
4. The HREC must have enhanced independence, involving:
 - Open and transparent Board appointments

³ Ibid Page 18

⁴ For a more detailed analysis of the background to and impact of the cuts to both bodies please see ERA submission to CERD : <http://tinyurl.com/6zaeexe>

- Freedom to appoint its own staff at all levels in particular all senior management posts
- Accountability to the Oireachtas (Parliament) rather than the current situation where the bodies are accountable to a Government Department

18). ECRI recommends that the Irish authorities provide more funding to the NCCRI to enable it to open more local offices. ECRI also encourages 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. (page 17 – I.54)

Irish Government Response:

“in line with the policy of a rationalisation of State funded agencies in the context of Budget 2009, the Government decided to cease funding the National Consultative Committee on Racism and Interculturalism from 2008 onwards. Some of the functions of the National Consultative Committee on Racism and Interculturalism were subsequently absorbed into the Office of the Minister for Integration (now the Office for the Promotion of Migrant Integration)”⁵.

ERA response:

As noted above, the NCCRI was forced to close in December 2008 following the withdrawal of all of its funding by government. At the time it was announced that the work of the NCCRI would be subsumed within the Office of the Minister for Integration (OMI), however, given that the funding of the OMI was cut by 26% in the same budget, it was difficult to envisage how it could take on the functions of the former NCCRI. The CEO of the NCCRI, in a statement on the cuts, noted:

‘There is now a significant vacuum in Government policy arising from the fact that there is no longer an expert body to advise on anti-racism and integration and no longer a dedicated plan and funding line focused on dealing with these issues. The Government says the NCCRI's functions" will be transferred to the Office for Integration. However, without staff or expertise being transferred, this commitment appears hollow’⁶

To coincide with the abolition of the NCCRI, in January 2009 the Government announced that it would not be continuing the National Action Plan Against Racism⁷. In the final report of the National Plan Against Racism, the Chair of its Steering Committee stated noted:

‘I am extremely concerned that in the midst of an economic crisis..... organisations working in the area of integration and interculturalism are the first victims of Government cutbacks. A decision

⁵ Op cit pg 21,

⁶ Philip Watt, Former CEO of the NCCRI (November 19th 2008), Irish Times ‘Budget cutbacks weaken State's capacity to combat racism <http://www.irishtimes.com/newspaper/opinion/2008/11/19/1227026413011.html>

⁷ The first National Action Plan Against Racism was operational from 2005 to 2008

*has clearly been made that we can no longer afford to confront the potential for racism, precisely at the time when many immigrants living in Ireland are at their most vulnerable*⁸.

At the current time, there is no longer a Minister for Integration and the independent critical voice of the NCCRI has been replaced by the Office for the Promotion of Integration which is situated within the Department of Justice, Equality and Defence. Since the closure of the NCCRI there is a significant gap in relation to the independent monitoring of incidents of racism and xenophobia and in relation to the delivery of anti-racism training to the Police and other front-line service providers.

E. CIVIL AND ADMINISTRATIVE LAW PROVISIONS

(10). ECRI strongly recommends 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 recommends that the Irish authorities involve NGOs, lawyers and other interested parties such as employers and employment agencies in this process. (page 13 – I.34)

Irish Government Response:

“An Equality Mainstreaming Approach activity, managed by the Equality Authority and funded under the European Social Fund Human Capital Investment Operational Programme 2007-2013, is facilitating and supporting institutional change within providers of vocational education and training, labour market programmes and within small to medium enterprises. It aims to achieve this by strengthening the capacity of such organisations to combat discrimination on all nine grounds protected by law (which includes age), to promote equality and to accommodate diversity”

ERA response:

In budget 2012 the government cut all State funding to the Equality Authority’s Equality Mainstreaming Unit. This, despite the fact that all of this funding provided by the State was reimbursed to the Irish Government by the European Social Fund. This work was cost neutral to the Irish exchequer.

B. CONSTITUTIONAL PROVISIONS AND OTHER BASIC PROVISIONS.

(4). ECRI calls again 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 recommends that the authorities ensure that any exceptions to the principle of equal treatment be established by law and that it not constitute discrimination. (page 9 – I.15)

⁸ NPAR Final report, Jan 2009, foreword by Chairperson, Lucy Gaffney pg 2 <http://tinyurl.com/7qyvw8y>

Irish Government Response:

“As mentioned above, the Programme for Government requires all public bodies to take due note of equality and human rights in carrying out their functions”.

ERA response:

ERA very much welcomed this commitment in the Programme for Government and we are lobbying for this commitment to be realized through amended equality legislation. However, in reply to a recently tabled Parliamentary question to the Minister for Justice and Equality asking when he intended to bring forward legislation to realise this commitment the Minister stated:

“I should clarify that the Programme for Government commitment to require all public bodies to take due note of equality and human rights in carrying out their functions does not refer to the introduction of new legislation.

Public bodies are already under clear statutory and constitutional obligations in relation to the treatment of individuals from a human rights and equality perspective.

The existing legislative framework includes the Equal Status Acts, the Employment Equality Acts, the Human Rights Commission Acts and the European Convention on Human Rights Act”⁹

The Minister is incorrect in stating that existing legislation is sufficient to realize this commitment to drive systemic change within our public services. Our current equality legislation can only be triggered once discrimination has occurred, whereas a positive duty is focused on preventing the occurrence of discrimination in the first instance by requiring equality concerns to be embedded at the planning and design stage of a policy, programme or service. The Ministers comments appear to constitute a significant row-back on this commitment.

⁹ PQ tabled by A **QUESTION NO: 476, DÁIL QUESTION** addressed to the Minister for Justice and Equality (Mr. Shatter) by Deputy Aengus Ó Snodaigh for **WRITTEN ANSWER** on **Wednesday, 15th June, 2011**