

# Irish Network Against Racism (ENAR Ireland)



Submission to the Working Group as part of the Consultation process  
on the proposed Human Rights and Equality Commission

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## **About ENAR Ireland (the Irish Network Against Racism)**

The Irish Network Against Racism (ENAR Ireland) is a national network of organisations working to highlight and address racism collectively. ENAR Ireland is the Irish National Coordination for the European Network Against Racism, an EU wide network of over 700 organisations which was established in 2000. A list of our members follows (appendix i). Further information on the Network can be found online at [www.enarireland.org](http://www.enarireland.org) or [www.enar-eu.org](http://www.enar-eu.org)

ENAR Ireland welcomes the opportunity to make a submission to the Working Group and would appreciate the opportunity to further discuss key issues and opportunities, particularly as they pertain to the capacity of the new body to address racism. We would like to take this opportunity to acknowledge the work that has been done by the Boards and staff of the two existing bodies over the past decade.

### **Key Recommendations highlight the need for:**

- **Accountability –**
- **Independence –**
- **Enhancing outcomes -**
- **Maintaining and expanding functions -**
- **Assistance to individuals –**
- **Effectiveness and efficiency -**
- **Visibility of anti racism –**
- **Gender equality and gender proofing-**
- **Resourcing –**
- **Positive Duty –**
- **Meeting International principles and national standards –**
- **Addressing weaknesses in Equality and human rights legislation.**

#### **a. What do you want the new body to do?**

Both the Equality Authority and the Irish Human Rights Commission have carried a number of core functions, that are required by international, EU and national law. A merger of the two existing bodies into a new body needs to ensure that these functions are not lost. While there has been some discussion on overlap of activities in the lead up to the establishment of the Working Group, ENAR Ireland is keen to point out that the bodies have carried out different functions and cautions that these functions must be maintained at a minimum.

ENAR Ireland communicates that a merger must at a minimum, guarantee that the body can carry out the functions required in International, EU and national law at present. A number of principles underpin human rights infrastructure in the international context. EU law including equality directives set out not only principles but also specific actions that are required by the equality body in the national context.

Over a decade since the establishment of equality infrastructure, we are keen to point out the need to expand the functions. While a decade ago, Ireland championed the equality agenda in the EU context, we now lag behind more progressive infrastructure that has been achieved in other Member States. We also remind stakeholders that some of the powers of the Equality Authority were effectively removed through the introduction of the Intoxicating Liquor Act – and should be reinstated. As an anti racist network, we are aware of the significant affect this has had e.g. on the Traveller community. We encourage the Working Group to examine how the HREC might be set up, reclaiming the original powers of the Equality Authority to be active in this area.

**In sum, the HREC must be set up to maintain the current functions of the bodies, look to expanding the functions in line with developments in the EU context and consider how it might regain ground lost in the past decade, e.g. through the introduction of the Intoxicating Liquor Act.**

The promotional, monitoring and representational roles of the HREC need to be made explicit and an appropriate balance struck. Among the **core functions** of the new body must be:

- Promotion of equality and human rights
- Legal advice and representation – the role of the HREC in supporting and representing individual victims of discrimination is essential.
- Amicus Curiae interventions
- Strategic litigation
- Monitor compliance with international and constitutional human rights and equality standard
- Equality proof proposed legislation
- Report to international and regional committees with regard to human rights
- Engage with civil society organisations
- Support the development of a comprehensive system of monitoring racist incidents, through a structured process of engagement with ENAR Ireland (see also section b below).
- Gender equality – all actions of the HREC should be gender proofed to assess the impact on women.

**b. What features and functions does it need to do these things?**

At this point, it is important to state that ENAR Ireland considers it is critically important to ensure that the equality agenda is visible and that it is not lost. We emphasise the need to be explicit about the concept of equality. The HREC should promote and enforce a concept of equality that reflects that articulated in the EU Equality Directive. We caution that unless the concept of equality is made explicit, there is a danger that a minimalist approach may be understood by some stakeholders.

This is a point at which the Working Group might also consider specific functions relating to racism, in light of other changes in the equality and human rights infrastructure since 2009. The National Consultative Committee on Racism and Interculturalism (NCCRI) was closed in December 2008 and its key functions have not been replaced. The NCCRI had a unique structure. Therefore, a number

of its functions can be carried out by civil society organisations, if resourced. However, as a partnership body, it may be appropriate for some of the functions to be carried out by the HREC.

ENAR Ireland is the national body monitoring and recording racist incidents reported to NGOs. Our research and international experience suggests that NGOs need to be equal partners in the monitoring of racist incidents, if a system is to be effective. It is important however, that there is structured engagement with statutory bodies and other relevant stakeholders. The HREC would be a key partner for ENAR Ireland in ensuring a comprehensive approach to monitoring racist incidents.

Since the introduction of the equality legislation and indeed the Belfast Agreement, civil society and other actors have promoted the concept of a **positive duty**. A positive duty exists in the North and elsewhere in the EU. The Working Group and government are presented with an opportunity to build in a positive duty, informed by best practice elsewhere. Experience in for example the UK and Sweden, have shown that the human rights/equality bodies play a critical role in ensuring the effectiveness and supporting statutory bodies in fulfilling their obligations. The HREC should be set up in a way that would give them sufficient powers and resourcing to deliver on a positive duty.

The new body needs to adequately resourced to carry out its functions.

It should also be noted that the equality legislation needs to be amended to extend its remit to State functions (e.g. greater powers in the area of policing and inclusion of the immigration function). The current exemptions including in the area of education, undermine the overall impact the HREC can have on protecting human rights and promoting equality. We also support extending the grounds covered by the legislation, including socio-economic status.

**c. How should it be structured and what working methods should it used to achieve the above?**

The structure of the new body needs to be mindful of accountability, independence and effectiveness.

ENAR Ireland as other NGOs including ERA, supports the recommendation that the HREC be accountable to the Oireachtas and report to the relevant Committee. It also suggests that there is a level of accountability to civil society and that this be reflected in the working methods and indeed within the governing structures.

A key principle underpinned by international and EU law and practice is Independence. This pertains both to the Board and to staffing, particularly senior staff. Where staff are provided through the civil service, they must be supported to carry out their duties independently and be required to do so. This is understood for example, in relation to the Equality Tribunal officers and should be made explicit in legislation establishing the new body.

## Appendix i: ENAR Ireland membership

	<b>Member organisation</b>	<b>County</b>
1	African Cultural Project	Dublin 1
2	Akidwa (African and Migrant Women's <b>Network</b> )	Dublin 1
3	Anti Racism <b>Network</b> (ARN)	Dublin
4	Ballyfermot Traveller Action Project	Dublin 10-
5	Cairde	Dublin 1
6	Comhlamh	Dublin 2
7	Community Workers Coop ( <b>Network</b> )	Galway
8	Cultúr	Meath
9	Donegal Failte Project	Donegal
10	Doras Luimni	Limerick
11	European Anti Poverty <b>Network</b> (EAPN) Ireland	Dublin 1
12	Galway Refugee Support Centre	Galway
13	Galway Traveller Movement	Galway
14	Immigrant Council of Ireland (ICI)	Dublin 2
15	Integration Centre	Dublin 8
16	Irish Refugee Council	Dublin 1
17	Irish Traveller Movement ( <b>Network</b> )	Dublin 2
18	Lir Anti Racism Training Project	Dublin 8
19	Longford Women's Link (LWL)	Longford
20	Louth Minority Ethnic Consortium	Louth
21	Mayo Intercultural Action (MIA)	Mayo
22	Migrant Rights Centre Ireland (MRCI)	Dublin 1
23	NASC Immigrant Centre	Cork
24	National Traveller Women's Forum	Galway
25	National Women's Council Ireland	Dublin 1
26	New Communities Partnership ( <b>Network</b> )	Dublin, Limerick, Cork, Waterford
27	Pavee Point (Traveller Centre)	Dublin 1
28	Show Racism the Red Card (SRRC)	Dublin 7
29	Sport Against Racism Ireland	Dublin 1
30	St. Vincentian Refugee Centre	Dublin 7