

REPORT

VISIT OF CO-ORDINATOR ON FOLLOW-UP TO IRELAND (21-23 June 2006)

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I. Introduction

1. Mr. Morten Kjærum, Co-ordinator on Follow-up of the Committee on the Elimination of Racial Discrimination (CERD), was invited by the Government of Ireland to conduct a visit from 21 to 23 June 2006 in order to discuss and assess the measures taken by the State party to follow-up on the conclusions and recommendations adopted by the Committee on 10 March 2005 (CERD/C/IRL/CO/2), following the examination of the initial and second periodic reports of Ireland submitted in one document (CERD/C/460/Add.1) in accordance with Article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination (hereafter the Convention).

2. During the visit, which was arranged by the Department of Justice, Equality and Law Reform, the Co-ordinator on Follow-up met with:

- officials from the Department of Justice Equality and Law Reform and officials from other departments¹,
- Minister of State, Frank Fahey,
- the National Consultative Committee on Racism and Interculturalism (NCCRI),
- the Irish Human Rights Commission,
- the NGO Alliance Against Racism and other NGOs²,
- the Chair of the Strategic Monitoring Group of the National Strategy Against Racism (NPAR), Ms. Lucy Gaffney and;

¹ See annex II: List of Departments and names of participants

² See annex III: List of NGOs

The Co-ordinator on Follow-up was also given the opportunity to visit the Mosney accommodation centre for asylum seekers.³

3. The Co-ordinator on Follow-up wishes to express his appreciation for the thorough follow-up report submitted by the State party prior to his visit to Ireland⁴, as well as for the effectiveness of the organisation of the visit. The co-ordinator also acknowledges with appreciation the report received from the NGO Alliance against Racism. These reports, together with the meetings organised during his visit, provided the Co-ordinator with an overview of the steps taken towards the implementation of the recommendations addressed by the Committee to the Government of Ireland in March 2005. Ireland is seen as a pioneer in the follow up processes and an example of good practice: Ireland is the first country to arrange for a follow up visit by the Coordinator.

4. The report of the Co-ordinator on Follow-up refers to all concerns and recommendations of the Concluding Observations of the CERD and the information provided in this regard by the State party.

II. Legal and technical aspects

5. Ireland has a legal framework addressing racism and racial discrimination and considers the rights and protection afforded by domestic legislation satisfactory. It therefore considers that it does not need to incorporate the Convention into its domestic legal order. It was pointed out by several legal experts throughout the follow-up visit, however, that the level of awareness regarding the Convention and the jurisprudence developed by CERD was rather low among officers of the system of administration of justice. The Co-ordinator on Follow-up recommends that further efforts be made to strengthen awareness of the Convention among relevant officials of the system of administration of justice, and that the incorporation of the Convention be considered.⁵

6. In its concluding observations adopted on 10 March 2005, the Committee recommended to the State Party that it reconsider its position on the declaration made to article 4 of the Convention.⁶ The State Party has begun this reconsideration by commissioning research into racism and criminal law. This research will explore the possible introduction of the concept of 'race hate crimes' and of 'race aggravated offences' into Irish legislation. The Co-ordinator on Follow-up welcomes the commissioning of the research and recommends that the assessment of the research findings take place in an open and transparent process.⁷

7. The State party informed the Co-ordinator that the establishment of a press council was being discussed and that awareness-raising activities to combat prejudice and xenophobic stereotyping

³ See annex I: Official programme

⁴ CERD/C/IRL/CO/2/Add.1

⁵ See para 9 of concluding observations: "The Committee invites the State party to envisage incorporating the Convention into its domestic legal order".

⁶ See para 10 of concluding observations: "Recalling its General Recommendation XV, the Committee recommends to the State party that it reconsider its position, and encourages it to withdraw the declaration made to article 4 of the Convention".

⁷ See para 11 of concluding observations: "The Committee encourages the State party to continue to combat prejudice and xenophobic stereotyping, especially in the media, and fight prejudice and discriminatory attitudes. In this context, the Committee recommends that the State party introduce in its criminal law a provision that committing an offence with a racist motivation or aim constitutes an aggravating circumstance allowing for a more severe punishment".

were on-going. The Co-ordinator on Follow-up welcomes the creation of a press council as well as the organisation of awareness-raising activities. He further recommends that a thorough evaluation of the effectiveness of these activities be undertaken.

8. Independent institutions and judicial bodies are seen as essential elements in the fight against racism and racial discrimination and the promotion of human rights. The establishment of several institutions and judicial bodies in the field of racial discrimination and human rights has proved effective to address racism and racial discrimination in Ireland. The Co-ordinator on Follow-up was made aware of the fact that sanction for the employment of new personnel by these public bodies has to be obtained from the Minister of Justice and the Minister for Finance. A cap on staff recruitment in the public sector also exists which hinders the institutions in the fulfilment of their functions. The Co-ordinator on Follow-up encourages a review of the recruitment procedures for statutory bodies in order to facilitate their effective functioning.⁸

9. The State Party has requested a tender to guide future funding for NGOs. The Co-ordinator on Follow-up welcomes this request as a positive step to improve the capacity of NGOs.⁹

10. The new Employment Permit Bill 2005 provides for new protective measures for migrant workers and facilitates their mobility. The employment permit including information on migrant workers' rights will be issued to the employee. The Government is also expected to recruit up to 90 labour inspectors to follow up on legislation. Furthermore, the sanctions for contravention of the provisions of the Bill are quite severe. The Co-ordinator on Follow-up welcomes the improvements made through the new Bill, but questions the remaining limits imposed on the mobility of the workers, as the employees cannot leave their employment during the first 12 months. The Co-ordinator is also concerned about the insufficient protection of large numbers of domestic workers residing in Ireland and recommends that the State party ensure better protection for members of this particularly vulnerable group of migrant workers.¹⁰

11. The Co-ordinator on Follow-up was informed of the creation of the new Garda Ombudsman Commission. The Ombudsman will function as a complaint mechanism and, according to information received, will also handle racial discrimination claims. Though the creation of the Garda Ombudsman is a step in the right direction,¹¹ the Co-ordinator on Follow-up is concerned, that the expansion of the scope of the Equal Status Act to cover the whole range of government functions and activities, including controlling duties, is still not a reality.

12. The recently introduced Immigration Bill reflects the State Party's acknowledgement of the importance of uniting immigration legislation to provide a transparent and consistent immigration policy structure. The Co-ordinator on Follow-up welcomes the introduction of the

⁸ See para 12 of the concluding observations, in which the Committee recommends that the State party provide the newly established institutions in the field of human rights and non-discrimination with adequate funding and resources to enable them to exercise the full range of their statutory functions, and also support the NGO community.

⁹ Ibid.

¹⁰ See para 14 of the concluding observations in which the Committee, recalling its General Recommendation XXX on discrimination against non-citizens, encourages the State party to ensure full practical implementation of legislation prohibiting discrimination in employment and in the labour market. In this context the State party could also consider reviewing the legislation governing work permits and envisage issuing work permits directly to employees.

¹¹ See para 19 of the concluding observations: "In order to ensure comprehensive protection against discrimination by public authorities, the Committee urges the State party to consider expanding the scope of the Equal Status Act so as to cover the whole range of government functions and activities, including controlling duties".

Immigration Bill which has not yet been made public. He anticipates that it will meet the concerns of CERD.¹²

13. The Government of Ireland does not at this stage intend to sign and ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and ILO Convention No. 97 on Migration for Employment (Revised). While taking note of the position of the State party, the Co-ordinator on Follow-up, encourages the State Party to examine possible ratification of the conventions in order to ensure better protection for migrants and migrant workers.¹³

III. Vulnerable groups

14. The Co-ordinator on Follow-up visited the “Mosney” accommodation centre for asylum seekers, and found that it had suitable facilities as well as committed staff and management. The choice to place children of asylum seekers in local schools challenges the idea of isolation and is welcomed. The Co-ordinator on Follow-up encourages an assessment of the system of direct provision rather than direct access to the labour market and the impact it has on the integration of persons when they are recognized as residents or granted asylum in Ireland.¹⁴

15. The Co-ordinator on Follow-up welcomes the drafting of a National Women’s Strategy, but regrets that multiple discrimination is not acknowledged in the strategy as a barrier to the integration of female Travellers and ethnic minorities. A further examination of the special needs for protection against discrimination of female Travellers and ethnic minority women is recommended as part of the National Women’s Strategy.¹⁵

16. The Co-ordinator on Follow-up encourages the State party to engage in close dialogue with the Traveller community regarding the identification of Travellers as an ethnic group, and to reach a common understanding. Travellers have a distinct culture, language and traditions and the Co-ordinator encourages the Government to take into account the principle of self-identification.¹⁶

17. The Co-ordinator on Follow-up welcomes the Garda Human Rights Audit which has resulted in a number of new structures and priorities for the Gardaí: a Garda Ombudsman Commission, a Garda Síochána Inspectorate, human rights training for all senior managers and targeting blacks and ethnic minorities for recruitment. Consultation, proactive elements and community policing

¹² See para 24. of the concluding observations in which “the Committee hopes that all issues pertaining to the appeal procedure will be adequately resolved within the framework of the proposed Immigration Bill (2004) currently before the Dáil”.

¹³ See para 25 of the concluding observations: “The Committee wishes to encourage the State party to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and ILO Convention No. 97 on Migration for Employment (Revised), to ensure better protection for migrants and migrant workers”.

¹⁴ See para 13 of the concluding observations: “The Committee encourages the State party to take all necessary steps with a view to avoiding negative consequences for individual asylum seekers, and to adopt measures promoting their full participation in society”.

¹⁵ See para 23 of the concluding observations: “The Committee, recalling its General Recommendation XXV, encourages the State party to take measures with regard to the special needs of women belonging to minority and other vulnerable groups, in particular female Travellers, migrants, refugees and asylum seekers”.

¹⁶ See para 20 of the concluding observations: “Welcoming the open position of the State party in this respect, the Committee encourages the State party to work more concretely towards recognizing the Traveller community as an ethnic group”.

approaches are to characterise the new structures of the Gardaí. The Co-ordinator endorses the outreach strategies to communities and blacks and ethnic minorities and stresses the importance of ongoing evaluation of new activities and structures. The Co-ordinator on Follow-up recommends that human rights training be made mandatory to all police academy cadets and to police officers at all levels.¹⁷

18. In the follow up report sent by the State party, it is stressed that the Garda authorities at entry points to the State are fully aware of their obligations and responsibilities enabling them to carry out their work in a non-discriminatory manner.¹⁸ The Co-ordinator on Follow-up welcomes such awareness and encourages the continuation of awareness-raising efforts on non-discrimination principles.¹⁹

IV. Education

19. The Government expresses its determination to promote diversity in schools. The adoption and mainstreaming of intercultural guidelines for teachers in primary schools is one promotional tool; the programme “Educate Together” has been created to provide more choice in education. The Co-ordinator on Follow-up encourages the State party to continue discussions on basic common principles on inclusiveness with which all schools ought to comply.

20. The Travellers training centres may lead to a situation where education is focusing on ‘traditional’ education due to the ethnic identity of the children as Travellers and not so much on the educational needs of the individual child. The Co-ordinator on Follow-up stresses the importance that within all levels in the education sector, focus be on educational needs of the individual pupil.

21. The Government has identified the limitation of the number of language support teachers to two teachers per school as a problem and is increasing the number of support teachers. The Co-ordinator on Follow-up welcomes this improvement and encourages the Government to explore further a policy on mother-tongue education. Finally the Co-ordinator encourages the Government to draft an overall education strategy with ‘inclusive education’ as a focal point.²⁰

V. Consultation and ongoing dialogue

22. The Co-ordinator on Follow-up encourages the State party to pursue its fruitful dialogue with NGOs and to continue drawing upon their expertise and experience in combating racial

¹⁷ See para 17 of the concluding observations: “The Committee invites the State party to include in its next periodic report data on the number of complaints against members of the police concerning discriminatory treatment as well as on the decisions adopted. It further recommends that the State party intensify its sensitisation efforts among law enforcement officials, including the setting up of an effective monitoring mechanism to carry out investigations into allegations of racially motivated police misconduct”.

¹⁸ See CERD/C/IRL/CO/2/add.1, para. 116

¹⁹ See para 16 of the concluding observations: “The Committee encourages the State party to review its security procedures and practices at entry points with a view to ensuring that they are carried out in a non-discriminatory manner”.

²⁰ See para 18 of the concluding observations: “The Committee, recognising the “intersectionality” of racial and religious discrimination, encourages the State party to promote the establishment of non-denominational or multi-denominational schools and to amend the existing legislative framework so that no discrimination may take place as far as the admission of pupils (of all religions) in schools is concerned”.

discrimination.²¹ In particular, the Co-ordinator encourages the Government to explore new ways to foster dialogue and create new platforms for discussion on issues concerning Travellers and discrimination that they may be facing. The Co-ordinator also encourages the Traveller community to actively participate in all relevant discussion fora.²²

23. The Co-ordinator on Follow-up notes with appreciation the dissemination to the public of the State Party report and of the concluding observations of the Committee. The State Party is encouraged to continue such dissemination so as to encourage greater awareness of the Convention, including its article 14 which offers the possibility for complaints by individuals and groups of individuals.²³

VI. Concluding remarks

24. The submission of a follow up report and the invitation issued to the Co-ordinator on Follow-up reflect the commitment of the State Party to combating racism and racial discrimination and to promoting an inclusive society. The report submitted by the NGO Alliance against Racism as well as the meetings organised for the Co-ordinator during his visit are also to be welcomed.

25. The Co-ordinator commends the State party for the studies commissioned and the various awareness-raising activities launched, in particular:

- National Action Plan Against Racism
- Research on racism and criminal law by the National University of Ireland, Limerick
- Garda Síochána Human Rights Audit.

26. The success of the approach adopted by the State party will depend on transparency as well as on a thorough assessment of the effectiveness of the activities. Capacity building of NGOs is also crucial, as well as the maintenance of a close dialogue between NGOs, Traveller community, ethnic minorities, NCCRI, IHRC and the Government. Finally, a solid embedding and mainstreaming of anti-discrimination and equal treatment principles in Irish society at large is crucial for the promotion of an inclusive society and effective protection against racial discrimination.

²¹ See para 26 of the concluding observations: “The Committee recommends to the State party that it continue consulting with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report”.

²² See para 21 of the concluding observations: “The Committee recommends to the State party that it intensify its efforts to fully implement the recommendations of the Task Force on the Traveller community, and that all necessary measures be urgently taken to improve access by Travellers to all levels of education, their employment rates as well as their access to health services and to accommodation suitable to their lifestyle”.

See also para 22: “The Committee invites the State party to consider adopting affirmative action programmes to improve the political representation of Travellers, particularly at the level of Dáil Eireann and/or Seanad Eireann”

²³ See para 27 of the concluding observations: “The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized”.