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against Racism and Intolerance

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ECRI REPORT ON IRELAND

(fifth monitoring cycle)

Adopted on 2 April 2019

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FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, racial discrimination, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States of the Council of Europe regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country monitoring deals with all member States on an equal footing. The work takes place in 5-year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, and those of the fourth round in the beginning of 2014. Work on the fifth round reports started in November 2012.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidence. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The fifth round country-by-country reports focus on four topics common to all member States: (1) Legislative issues, (2) Hate speech, (3) Violence, (4) Integration policies and a number of topics specific to each one of them. The fourth-cycle interim recommendations not implemented or partially implemented during the fourth monitoring cycle will be followed up in this connection.

In the framework of the fifth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

The following report was drawn up by ECRI under its own responsibility. Except where expressly indicated, it covers the situation up to 6 December 2018; developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.

SUMMARY

Since the adoption of ECRI's fourth report on Ireland on 5 December 2012, progress has been made in a number of fields.

The Irish Human Rights and Equality Commission was set up on 1 November 2014 as Ireland's equality body. A positive duty has been imposed on public bodies to have due regard to human rights and equality in carrying out their functions.

In March 2017 the Prime Minister made a statement formally recognising Travellers as an indigenous ethnic group. The National Traveller and Roma Inclusion Strategy 2017-2021 was launched in June 2017.

A revised Migrant Integration Strategy "A Blueprint for the Future" was published in February 2017 covering the period up to 2020. A Communities Integration Fund was set up and in 2017 every county in Ireland received funding for locally-run projects to support integration. As of June 2018 asylum seekers who have been in Ireland for a period of nine months are permitted to work.

The Education (Admission to Schools) Act was passed in July 2018 prohibiting over-subscribed primary schools from discriminating in the area of school admissions on the basis of religion.

Garda (police) Ethnic Liaison Officers and LGBT Liaison Officers working with minority communities at local level play a key role in encouraging tolerance, respect and understanding, and preventing racist hate crime.

Same-sex marriage became legal in 2015 following a referendum. The Gender Recognition Act 2015 allows transgender persons to officially register their change of name and gender through self-determination without the requirement of medical intervention or assessment. In 2016, comprehensive guidelines on "Being LGBT in School" were published to help prevent homo/transphobic bullying and support LGBT pupils. An LGBTI+ National Youth Strategy 2018-2020 was launched by the Ministry for Children and Youth Affairs.

ECRI welcomes these positive developments in Ireland. However, despite the progress achieved, some issues give rise to concern.

Ireland has not renewed its National Action Plan against Racism which ended in 2008.

There continue to be no provisions in Irish criminal law defining common offences of a racist or homo/transphobic nature as specific offences, nor any specific or statutory provision for racist or other hate motivation to be considered as an aggravating circumstance for all criminal offences.

The Prohibition of Incitement to Hatred Act 1989 is seldom used and is particularly ineffectual in combating online hate speech. Hate speech involving verbal abuse in public places is quite common. There is an undercurrent of low-level racist violence which is not adequately recorded or addressed.

Discrimination cases involving licensed premises can still only be heard by District Courts, which may be a barrier to access to justice for members of the Traveller community. Civil legal aid is not available for proceedings before the Workplace Relations Commission and the name of this body could be misleading.

The majority of local authorities have consistently failed to provide adequate and culturally-appropriate accommodation for Travellers. The National Traveller and Roma Inclusion Strategy contains no actions related to accommodation for Roma. The current housing crisis with severe shortage, high rent prices and discrimination against migrants creates enormous challenges for vulnerable communities.

Direct provision accommodation for asylum seekers and refugees continues to present major concerns, including length of stay, overcrowding, inability to conduct normal family life, and harassment and threats experienced by LGBT asylum seekers.

In this report, ECRI requests that the authorities take action in a number of areas; in this context, it makes a series of recommendations, including the following.

New hate speech and hate crime legislation should be enacted in consultation with relevant civil society actors.* An improved mechanism for collecting disaggregated data on hate crime, including hate speech, should be established. Data should be systematically recorded on the hate motive invoked at all stages of investigation, prosecution, conviction and sentencing and made available to the public.

Alternative mechanisms should be set up to encourage victims to report hate crime incidents, such as third-party reporting systems or dedicated telephone lines, in cooperation with relevant NGOs.

Ethnic profiling by the police should be clearly defined and prohibited by law. All police should be thoroughly trained in identifying, recording and investigating hate crime. More Ethnic Liaison Officers and LGBT Liaison Officers should be recruited and trained and diversity in the police should be increased.

The Employment Equality Acts and the Equal Status Acts should be amended to explicitly include the ground of gender identity.

A new and updated strategy against racism should be developed with a strong focus on reducing prejudice against the most vulnerable and targeted communities, including Travellers, Roma, migrants and Muslims.

Efforts to meet the accommodation needs of Travellers should be increased, including by improving existing halting sites to meet decent and safe living standards, and by providing adequate, accessible, suitable and culturally-appropriate accommodation. A solution should be found to the issue of failure by local authorities to use funding allocated for Traveller accommodation, by imposing dissuasive sanctions on local authorities for failure to spend allocated funding, or removing the responsibility for Traveller accommodation from local authorities and placing it under the authority of a central housing commission.*

More resources should be invested in Traveller education, notably by restoring the visiting teacher service and providing specialised resource teachers. The authorities should raise awareness of the right to free pre-school education among Roma families, and support and encourage participation in early childhood education.

A national housing strategy should be developed setting out measures to generate supply of affordable housing and combat racial discrimination, with particular attention paid to the needs of all vulnerable communities in the country, including Travellers, Roma, migrants and refugees.

Sufficient resources should be invested in ensuring that asylum applications are processed more efficiently in order to reduce time spent in direct provision; efforts should be made to assist asylum seekers to access the labour market; solutions should be found to LGBT concerns in direct provision and the good practices employed in the Mosney direct provision centre should be extended to other centres.

* This recommendation will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. Common topics

1. Legislation against racism¹ and racial discrimination²

- Protocol No. 12 to the European Convention on Human Rights

1. Ireland signed Protocol No. 12 on 4 November 2000 but has still not ratified it and there are no plans to do so. ECRI considers that this Protocol providing for a general prohibition of discrimination is a key tool in the fight against racism and intolerance.

2. ECRI reiterates its recommendation to ratify Protocol No. 12 to the European Convention on Human Rights.

- Criminal law

3. The following analysis focuses on the missing elements in Irish criminal law as compared to ECRI's General Policy Recommendation (GPR) No. 7 on national legislation to combat racism and racial discrimination.³

4. Under the Prohibition of Incitement to Hatred Act 1989, section 2, it is an offence to publish or distribute written material, use words, behave or display written material, or distribute, show or play a recording of visual images or sounds, if the above acts are threatening, abusive or insulting and are intended or likely to stir up hatred. Hatred is defined in section 1 as hatred against a group of persons in the State or elsewhere on account of their race, colour, nationality, religion, ethnic or national origins, membership of the Travelling community or sexual orientation. This legislation is not fully in line with ECRI's GPR No. 7 §18a, b and c, which calls for separate offences (public incitement to violence, hatred or discrimination; public insults; and defamation): it lacks the offences of incitement to violence and to discrimination, as well as defamation, against a person or group on grounds of their race, colour, language, religion, citizenship, or national or ethnic origin; it applies only where a group of persons is targeted but not an individual; and there is no reference to the ground of language (see also §120). In particular, the above-mentioned acts are not criminalised per se but only where they are intended or likely to stir up hatred (see §34).

5. There are no provisions penalising the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a group of persons on grounds of their race, colour, language, religion, nationality or national or ethnic origin, as called for in GPR No. 7 §18d. There are also no provisions corresponding to §18e on the public denial, trivialisation, justification or condoning of crimes of genocide, crimes against humanity or war crimes.

6. While sections 18 and 21 of the Offences against the State Act 1939 cover some elements of GPR No. 7 §18g, they do not fully reflect the recommendation to criminalise the creation or leadership of a group which promotes racism, support for such a group and participation in its activities with the intent to commit the offences covered by §18a, b, c, d, e and f. There are also no provisions setting

¹ According to ECRI's General Policy Recommendation (GPR) No.7, "racism" shall mean the belief that a ground such as "race", colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons.

² According to GPR No. 7 "racial discrimination" shall mean any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

³ LGBT issues are dealt with in the section on policies to combat discrimination and intolerance vis-à-vis LGBT.

out criminal liability for racial discrimination in the exercise of one's public office or (private) occupation, as per GPR No. 7 §18h.

7. Finally, contrary to ECRI's recommendation in GPR No. 7 §21, there continue to be no provisions on racist motivation constituting an aggravating circumstance for all criminal offences (see also §§47-48 of this report).
8. ECRI recommends that Irish criminal law is amended to include the following offences: public incitement to violence and to discrimination and defamation against a person or group on grounds of their race, colour, language, religion, citizenship, or national or ethnic origin; the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a group of persons on grounds of their race, colour, language, religion, nationality or national or ethnic origin; the public denial, trivialisation, justification or condoning of crimes of genocide, crimes against humanity or war crimes; the creation or leadership of a group which promotes racism, support for such a group and participation in its activities; and racial discrimination in the exercise of one's public office or (private) occupation. The legislation should apply to individuals as well as groups, the ground of language should be inserted, and the elements of intention to or likelihood of stirring up hatred should be removed. The law should also be amended to provide that racist and other hate motivation constitutes an aggravating circumstance for all criminal offences and is taken into account in sentencing.

- **Civil and administrative law**

9. Irish anti-discrimination legislation is found in the Equal Status Acts 2000-2015 covering goods, services, housing and education, and the Employment Equality Acts 1998-2011 governing employment and occupation. The nine discrimination grounds set out in the two acts are gender, marital status, family status, sexual orientation, religion, age, disability, race (including colour, nationality, ethnic or national origin), and membership of the Traveller Community (see ECRI's recommendation in §122).
10. The acts are largely in line with ECRI's GPR No. 7. However, as concerns forms of discrimination, ECRI notes that segregation, inciting another to discriminate, and aiding another to discriminate are missing, as compared to GPR No. 7 §6.
11. ECRI is pleased to note that section 42 of the Irish Human Rights and Equality Commission Act 2014 (see below) introduced a positive duty on public bodies to have due regard to human rights and equality in carrying out their functions, in line with ECRI's recommendation in GPR No. 7 §8. However, there are no provisions corresponding to §9 on placing public authorities under a duty to ensure that parties to whom they award contracts, loans, grants or other benefits respect and promote a policy of non-discrimination.
12. As regards easy access to judicial and/or administrative proceedings, as set out in GPR No. 7 §10, complaints under the above-mentioned acts may be brought before the Workplace Relations Commission (WRC).⁴ This operates as a quasi-judicial body, investigating, hearing and adjudicating on complaints, and awarding compensation or other remedies. The option of mediation is also available. The procedure is informal and free of charge.
13. However, while the WRC is competent to deal with cases of discrimination in all fields, including the provision of goods and services, cases involving licenced premises, such as pubs, nightclubs, hotels and other public venues licensed to

⁴ The WRC was established on 1 October 2015 bringing under one roof the work of the National Employment Rights Authority, the Labour Relations Commission, the Rights Commissioner Service, the Equality Tribunal, and the first instances remit of the Employment Appeals Tribunal.

sell alcohol, are excluded from its mandate.⁵ In its fourth report, ECRI drew attention to this and recommended, as one of its interim follow-up recommendations, that an independent authority (other than the courts) should be competent to deal with cases of discrimination in the provision of goods and services. ECRI regrets that there has been no change and that cases involving licensed premises can still only be heard by District Courts. This may be a barrier to access to justice for the most disadvantaged community in Ireland; members of the Traveller community are frequently refused admission to licensed premises and have no alternative to seeking redress in a District Court, which is less accessible than the WRC and more costly, making it prohibitive.

14. Furthermore, civil legal aid is not available for proceedings before administrative tribunals, including the WRC, even though there are often complex legal issues involved. Representation remains at the cost of the parties. This is not in line with ECRI's GPR No. 7 §26 and raises concerns over access to justice. Indeed, ECRI notes that a very high proportion of complainants and respondents represent themselves throughout the process (53% in 2017).⁶
15. ECRI is also concerned that the name of the body could be misleading. While the WRC's main functions are related to employment matters, it also deals with equality and discrimination in all areas. This could negatively affect public awareness and hinder victims' seeking justice, and may partly explain why only 11% of complaints received in 2017 were for discrimination or equality.⁷
16. As regards the recommendation in GPR No. 7 §17 on the possibility of dissolution of organisations which promote racism, ECRI notes that section 19 of the Offences against the State Act 1939 provides for declaring any organisation unlawful and issuing a suppression order. However, the act was drafted in the context of outlawing paramilitary and terrorist organisations and it is uncertain whether it could apply to racist organisations.⁸
17. ECRI recommends that the Equal Status Acts and Employment Equality Acts are amended to include segregation, inciting another to discriminate and aiding another to discriminate as forms of discrimination, as well as a duty on public authorities to ensure that parties to whom they award contracts, loans, grants or other benefits respect and promote a policy of non-discrimination. The authorities should also streamline procedures so that all discrimination cases, on all grounds and in all areas, are dealt with by the Workplace Relations Commission (WRC); ensure that legal aid is available for proceedings before the WRC for cases involving discrimination and equality; consider renaming the WRC to something more representative of its broad functions; and ensure that legislation provides for the possibility of dissolution of organisations which promote racism.

- **Equality bodies⁹**

18. In its fourth report, ECRI recommended that the authorities make sure that the merger of the Human Rights Commission and the Equality Authority results in the setting up of a body that complies with the Paris Principles and ECRI's GPR Nos. 2 and 7. It further recommended that sufficient financial and human resources should be available to the new body to allow it to fulfil its terms of reference.
19. ECRI notes that, under the Irish Human Rights and Equality Commission Act 2014, the Equality Authority and the Irish Human Rights Commission were

⁵ These venues are governed by the provisions of the Intoxicating Liquor Act 2008.

⁶ Workplace Relations Commission 2018.

⁷ Workplace Relations Commission 2018.

⁸ See Law Society of Ireland 2018.

⁹ The term "national specialised bodies" was updated to "equality bodies" in the revised version of GPR No. 2 which was published on 27 February 2018.

dissolved and the Irish Human Rights and Equality Commission (hereafter, IHREC) was set up, on 1 November 2014, as Ireland's equality body. The functions of the IHREC are to promote and protect human rights and equality; encourage the development of a culture of respect for human rights, equality, and intercultural understanding; promote understanding and awareness of the importance of human rights and equality; encourage good practice in intercultural relations, to promote tolerance and acceptance of diversity and respect for the freedom and dignity of each person; and work towards the elimination of human rights abuses, discrimination and prohibited conduct.

20. The IHREC enjoys legal standing to bring complaints to the WRC relating to patterns of discrimination, discriminatory advertising or the contents of a collective agreement. It can also provide assistance and legal representation to an individual complainant. In addition, the IHREC has power to conduct inquiries as to whether a body is seriously violating human rights or equality obligations and can serve compliance notices on such bodies or seek injunctions from the courts. Failure to carry out compliance notices or notices requiring specific action would constitute criminal offences. However, the IHREC does not appear to have used this power to date. As concerns independence, the members of the IHREC, who number not more than 15 and not less than 12, are appointed by the President on the advice of the Government and following the passing of a resolution by each House of Parliament recommending the appointment. The IHREC may, with the consent of the Minister, appoint its own staff. The budget allocation for 2017 was 6.5 million euros and it has an approved staffing level of 47 posts. The IHREC was accredited as an "A" status National Human Rights Institution under the Paris Principles in 2015. ECRI is pleased to note that the IHREC appears to be broadly in line with ECRI's GPR No. 2.

2. Hate speech¹⁰

- Data

21. The authorities informed ECRI that only seven incidents falling under section 2 of the Prohibition of Incitement to Hatred Act 1989 have been recorded by police in the last five years and only two cases went on to prosecution with the outcomes still pending. Figures available from the Courts Service show that since 2000 there have been only five convictions under the act and that only two resulted in imprisonment.¹¹ Therefore, the legislation is seldom used (see §§34-35).
22. In its fourth report, ECRI strongly encouraged the authorities to improve and to supplement the existing arrangements for collecting data on racist incidents and the follow-up given to them by the criminal justice system. ECRI recalls that the Garda Síochána (the Irish Police Service) PULSE (Police Using Leading Systems Effectively) computer system, introduced in 1999, allows for the registration of hate motivations underlying hate crime incidents.¹² In 2015, the five categories of hate motivation were increased to 11, and now include racism, anti-Traveller prejudice, anti-Roma hatred, Islamophobia, antisemitism, homophobia,

¹⁰ According to ECRI's GPR No. 15 on combating hate speech, "hate speech" shall mean the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatization or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of "race", colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status.

¹¹ Law Society of Ireland 2018.

¹² The police define hate crime as "any incident which is perceived by the victim or any other person as being motivated by hate, based on a person's age, race, ethnicity, religious belief, gender identity, disability, or sexual orientation" (www.garda.ie/en/Crime/Hate-crime/What-is-hate-crime.html).

transphobia and gender prejudice.¹³ However, these specific data are not made public. Moreover, about a quarter of police services are not connected to the central network and the system has been criticised for being outdated, unreliable and ineffective.¹⁴

23. The Central Statistics Office publishes data on recorded crime incidents on a quarterly basis, providing details on the number and type of crime incidents recorded by the Garda Síochána. However, hate motivations are not indicated in the statistics. An Garda Síochána also publishes data on hate crime incidents recorded by police in its annual reports, however ECRI regrets that these are not broken down into the specific hate motivation. According to its Annual Report 2017, the police recorded 323 incidents of hate crime in 2017 (up from 290 in 2016).¹⁵
24. ECRI notes that the number of hate crimes recorded by the police is only about a half or a third of those recorded by NGOs. The European Network Against Racism (ENAR) Ireland has been operating a recording system since 2013 called iReport for people to report hate-motivated incidents directly to their website or through a partner organisation. iReport logged 330 reports of hate-motivated incidents just for the period January to June 2017.¹⁶ Of these, 13 incidents involved threats of death or serious harm, 18 racist graffiti and 33 involved verbal abuse. These incidents were directed mainly against Travellers and Roma, people of perceived African origin, and people perceived to be Muslims.¹⁷ The discrepancy in data with those of the police is also addressed in §44.
25. Furthermore, ECRI regrets that there is no recording of any hate element invoked during prosecution, conviction or sentencing. This is an important deficiency which makes it impossible to obtain a full picture of the situation as regards hate crime in Ireland as well as to provide an adequate response.
26. ECRI strongly recommends that an improved mechanism for collecting disaggregated data on hate crime, including hate speech, is established. Data should be systematically recorded on the hate motive invoked at all stages of investigation, prosecution, conviction and sentencing. These data should be made available to the public.

- **Hate speech in public discourse**

27. There is no far right, racist, anti-immigrant or homo/transphobic political party in Ireland. In 2017 a youth movement called Generation Identity UK and Ireland was launched, one of whose core aims is to “stop the Islamisation of Europe”. While significant instances of hate speech in political discourse are rare, in September 2017 a local government councillor (member of the main party in the Government) disseminated anti-Muslim messages on social media.¹⁸
28. On the other hand, hate speech involving verbal abuse in public places is quite common. Within the first six months of 2017, 31 such cases were reported.¹⁹ People who are visibly different from the majority population, in particular regarding skin colour and dress, appear to be the most targeted. For example, a Black man was subjected to verbal abuse and threats by a group while using public services in Limerick; an African woman was threatened on public transport in Dublin; a Muslim man from a Black/African background was threatened and

¹³ Dublin City Interfaith Forum 2015; European Union Agency for Fundamental Rights 2016.

¹⁴ [https://en.wikipedia.org/wiki/PULSE_\(Police_Using_Leading_Systems_Effectively\)](https://en.wikipedia.org/wiki/PULSE_(Police_Using_Leading_Systems_Effectively)).

¹⁵ An Garda Síochána 2018a.

¹⁶ ENAR Ireland 2018.

¹⁷ http://enarireland.org/wp-content/uploads/2018/01/iReport_1516_jan-jun2017.pdf.

¹⁸ The Journal 2017c.

¹⁹ ENAR Ireland 2016; ENAR Ireland 2018; Irish Independent 2017a; Immigrant Council of Ireland 2016.

verbally assaulted in a shopping centre in a rural town; a Muslim woman and her children were verbally assaulted and threatened on several occasions in a Dublin playground; and an Indian woman was verbally assaulted on a train in Limerick.

29. There were 18 reports of racist graffiti in the first half of 2017, including swastikas sprayed in a children's playground and on a Dublin street, and "Muslims out" graffiti painted on a shopping centre. "White pride", anti-refugee and "multiculturalism is genocide" stickers were distributed around city streets.²⁰

- **Hate speech in the media and on Internet**

30. According to many sources, hate speech is not a serious problem in traditional media, even in the tabloid press, although some anti-immigrant sentiment is expressed in certain sections of the mainstream media. iReport logged 61 reports of hate speech published by Irish newspapers (including their online editions and social media accounts) in the first six months of 2017.²¹

31. However, the situation is very different when it comes to the Internet and social media in particular. According to iReport, there were 111 reports of racist hate speech online in the first six months of 2017. Social media companies published 82 of these, with 37 on Facebook, 35 on Twitter and 10 on YouTube.

32. Much of the social media prejudice is expressed against Irish Travellers and, more recently, Roma. A Facebook group was created to expel "gypsy criminals", proposing to "burn the cockroaches".²² Other common targets are Black people. For example, in November 2017, a professional footballer on the national team was subjected to a barrage of racist abuse and threats on Twitter after Ireland's World Cup playoff defeat to Denmark.²³ In September 2017, two pupils at a private Dublin secondary school were suspended after making death threats and racially insulting comments to a Black classmate via a WhatsApp group.²⁴ According to a recent report, there is also considerable anti-Muslim abuse on Internet.²⁵ The report cites comments made on Facebook advocating the "elimination of Muslims" in the same way that Hitler eliminated Jews, and suggesting that Muslim refugees would commit sexual violence in Ireland.

- **The authorities' response**

33. ECRI considers hate speech particularly worrying not only because it is often a first step in the process towards violence but also because of the pernicious effects it has psychologically on those who are targeted and on social cohesion in general. Appropriate responses include law enforcement channels (criminal, civil and administrative law sanctions) as well as other mechanisms to counter its harmful effects, such as prevention, self-regulation and counter speech.

34. Regarding the criminal law response, as observed above there continues to be extremely limited application of the Prohibition of Incitement to Hatred Act 1989. The Law Reform Commission observed that the act has proven particularly ineffectual in combating online hate speech, the element of intending or likely to stir up hatred being especially problematic.²⁶ ECRI notes that the review of the act, which it recommended in its fourth report, is still on-going. Moreover, the Migrant Integration Strategy 2017-2020 now tasks the Department of Justice and Equality to review the current legislation regarding racially-motivated crime with a

²⁰ ENAR Ireland 2018; Immigrant Council of Ireland 2016.

²¹ ENAR Ireland 2017.

²² Civic Nation, Ireland.

²³ Irish Times 2017c; The Telegraph 2017.

²⁴ The Journal 2017d.

²⁵ Carr J. 2017.

²⁶ Schweppe J., Haynes A. and Walters M.A. 2017.

view to strengthening it, including in the area of online hate speech. ECRI notes that there is very wide support among civil society and legal professionals for updating Ireland's hate speech and hate crime legislation which is seriously defective at present (see §48).

35. ECRI strongly recommends that new hate speech and hate crime legislation is enacted in consultation with relevant civil society actors. Inspiration should be taken from ECRI's GPR Nos. 7 and 15, and hate based on the following grounds should be included: race, colour, ethnic/national origin, citizenship, language, religion, sexual orientation and gender identity.
36. In this context, the authorities informed ECRI that ratification of the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems is a legislative priority within the next two years. In view of the significant problems of online hate speech noted above, ECRI strongly encourages ratification of this instrument.
37. As concerns self-regulation, ECRI notes that the revised Code of Programme Standards launched by the Broadcasting Authority of Ireland (BAI) in 2015 aims to promote responsible television and radio broadcasting and reduce undue offence and harm. It contains seven guiding principles. Principle 5, covering respect for persons and groups in society, states that "programme material shall not stigmatise, support or condone discrimination or incite hatred against persons or groups in society in particular on the basis of age, gender, marital status, membership of the Traveller community, family status, sexual orientation, disability, race, nationality, ethnicity or religion". ECRI encourages the addition of language and gender identity to the list of grounds.
38. ECRI was informed by members of the BAI that there is good compliance with the code and only a small number of complaints are received. In the last five years, only nine complaints were submitted invoking Principle 5 and only three of these were upheld as breaches of the code.
39. As for the press, ECRI recalls that the press industry signed a voluntary Code of Practice for Newspapers and Magazines in 2007. Principle 8 provides that "the press shall not publish material intended or likely to cause grave offence or stir up hatred against an individual or group on the basis of their race, religion, nationality, colour, ethnic origin, membership of the travelling community, gender, sexual orientation, marital status, disability, illness or age". Again, ECRI encourages the addition of the grounds of language and gender identity.
40. The Press Ombudsman and the Press Council provide a system of independent regulation for the printed media. The Press Ombudsman investigates and adjudicates complaints under the above-mentioned code, and appeals are heard by the Press Council. Again ECRI was informed that there is a high level of compliance. In the last ten years, 3 556 complaints in total were received; 351 resulted in formal decisions by the Press Ombudsman, with 128 upheld (the rest were resolved by conciliation or mediation, or not pursued). In 2017, a total of 330 complaints were submitted, 14.7% of which invoked Principle 8.²⁷
41. Finally, ECRI places great importance on tackling hate speech through confronting and condemning it directly by counter speech that clearly shows its destructive and unacceptable character. Public figures can make an especially important contribution because the esteem in which they are held gives their voice a considerable influence over others. ECRI is pleased to note that members of the Government, including the Prime Minister, took to social media to distance themselves from the anti-Muslim remarks made by a local government councillor (see §27). One stated that the comments were "completely

²⁷ www.presscouncil.ie/statistics.

unacceptable, and completely against the inclusive Ireland that I stand for”.²⁸ In addition, the party imposed sanctions on the councillor (removal of the whip for twelve months²⁹).³⁰ ECRI welcomes these reactions which send a strong signal to the public that racism and intolerance will not be tolerated.

3. Racist and homo/transphobic violence

- Data and extent of the problem

42. As noted above, hate crime incidents are recorded by the Garda Síochána but are not made public. The Central Statistics Office (CSO) publishes recorded crime statistics based wholly on the provision of PULSE data by the Garda Síochána, but without indicating any hate motivation. The authorities informed ECRI that following a quality review of the data, the CSO took the decision not to publish data on hate motivations because the recorded data were not sufficiently robust to compile trustworthy statistics. ECRI considers this unsatisfactory and refers to its recommendation in §26.
43. Ireland regularly reported data on hate crimes recorded by the police to OSCE/ODIHR up until 2015.³¹ According to this source, in 2015 the police recorded 127 incidents of hate crime broken down into two main bias motivations - racism and xenophobia (125 incidents) and bias against LGBT (2 incidents). These figures are considerably higher than in 2014 in which only 53 hate crimes were recorded, 43 of which involved racism and xenophobia and 8 LGBT bias.
44. The authorities informed ECRI that in the last five years (2013-2018), the police recorded 702 violent incidents under the “race” category, 123 under the category of homophobia and 11 under transphobia. As for NGOs, the Transgender Equality Network Ireland (TENI) recorded 22 hate crimes against transpersons in 2015 alone and 15 in 2016. Within the first six months of 2017, ENAR Ireland recorded 19 racist assaults and 12 cases of racist criminal damage. One of these included an attack on a mosque in Galway City where rocks were thrown at the windows during evening prayers.³² Reports also emerged in 2017 of Muslim women being harassed in public places, with their veils removed, faces slapped or being spat at.³³ ECRI was also informed of aggressive behaviour and violence targeting ethnic minorities in the workplace, notably in the construction, cleaning and fishing industries (see §92). According to the EU MIDIS II survey, Ireland had one of the highest rates of hate-motivated harassment experienced by immigrants and descendants of immigrants from Sub-Saharan Africa.³⁴
45. While ECRI is pleased to note that there is little indication of organised, hate-motivated attacks occurring in Ireland, nevertheless there appears to be an undercurrent of low-level violence which is not adequately recorded or addressed. Moreover, the discrepancy in statistics between those recorded by police and by NGOs is cause for concern. It could indicate deficient understanding and recording of hate crime incidents by the police as well as victims’ unwillingness to turn to the police. ECRI considers that alternatives forms of reporting, such as third-party reporting sites or dedicated telephone hotlines, should be established in cooperation with relevant NGOs. These can be highly effective since many people feel more comfortable talking about traumatic

²⁸ The Journal 2017c.

²⁹ This meant that he could not claim to represent the party at any political forum during that time.

³⁰ Carr J. 2017.

³¹ OSCE/ODIHR, Hate Crime Reporting – Ireland.

³² Carr J. 2017.

³³ Carr J. 2017.

³⁴ European Union Agency for Fundamental Rights (FRA) 2017b.

incidents with members of their own community. In this context, ECRI applauds the reporting initiatives of ENAR Ireland (iReport) and TENI.

46. ECRI strongly recommends setting up alternative mechanisms to encourage victims to report hate crime incidents, such as third-party reporting systems or dedicated telephone lines, in cooperation with relevant NGOs.

- **The authorities' response**

47. Violence is punished under the Criminal Justice (Public Order) Act 1994, the Non-Fatal Offences Against the Person Act 1997 and the Criminal Damage Act 1991. There continue to be no provisions in Irish criminal law defining common offences of a racist or homo/transphobic nature as specific offences, nor is there any specific or statutory provision for the racist or other hate motivation of a crime to be considered as an aggravating circumstance. Hate crime can only be recognised through sentencing as judges have the power to take any element, including racist motivation, into consideration, although they are not expressly required to do so. ECRI refers to its recommendation in §26.

48. A number of initiatives have been taken to draw up hate crime legislation, none of which have advanced significantly. In 2014, the Minister of State commissioned the Hate and Hostility Research Group at the University of Limerick to investigate the case for the introduction of hate crime legislation in Ireland. The resulting research, which was published in July 2018,³⁵ showed that hate crimes do occur in an Irish context, and that Irish victims feel that hate crime hurts more and causes a ripple effect through targeted communities. It clearly demonstrated the need for hate crime legislation, the absence of which leads to a systematic “disappearing” of the hate element in the criminal justice process and a failure to recognise the harms of hate. During its country visit to Ireland, ECRI’s delegation noted overwhelming consensus among its interlocutors that hate crime legislation is urgently needed in Ireland (see its recommendation in §35).

49. Finally, ECRI has a number of concerns regarding police competence in combating racism and intolerance. Firstly, the issue of racial profiling came up in 2013 when two children (aged 2 and 7) were removed by police from Roma families in Athlone and in Tallaght because their “white appearance” led police to suspect that they had been kidnapped. Following a special inquiry, the Children’s Ombudsman concluded that their actions “conformed to the definition of ethnic profiling”.³⁶ The Law Society of Ireland stated that even if racial profiling is not part of the institutional norms of the Garda Síochána, it may occur at an operational level.³⁷ According to the 2018 report on Roma in Ireland - A National Needs Assessment,³⁸ 77.5% of Roma respondents reported having been stopped by police at least once for ID.

50. Regrettably, racial profiling has not been defined and prohibited in law, as recommended by ECRI in its GPR No. 11 on combating racism and racial discrimination in policing. Racial profiling has considerably negative effects, generating a feeling of humiliation and injustice among affected groups and resulting in stigmatisation and alienation. Furthermore, it is detrimental to overall security, as it erodes trust in the police and contributes to under-reporting of crime. It is in everyone’s interest that crime is reported and investigated. A report published in August 2017 revealed that 5 out of 6 victims of racist incidents said that they would not report to the police or other official body, and that the majority of victims characterised their encounter with the police as negative.³⁹ Police have

³⁵ Schweppe J., Haynes A. and Walters M.A. 2018.

³⁶ Ombudsman for Children 2014.

³⁷ Law Society of Ireland 2018.

³⁸ Pavee Point Traveller and Roma Centre & Department of Justice and Equality 2018.

³⁹ Civic Nation, Ireland.

been found to misidentify racist incidents and to actively refuse to take statements from victims of racism. The Garda Síochána Public Attitudes Survey 2017 showed that crime victims reported lower rates of trust compared to non-victims.⁴⁰ ECRI is, therefore, pleased to note that Action 66 of the Migrant Integration Strategy addresses under-reporting of racially-motivated crime and calls for greater contact with marginalised communities.

51. In this context, ECRI welcomes the appointment of Garda Ethnic Liaison Officers (ELOs), as well as some LGBT Liaison Officers, to work with minority communities at local level. These officers play a key role in encouraging tolerance, respect and understanding, with the aim of preventing racist hate crime, and are trained to provide specific support and advice to victims.⁴¹ However, of some 13 500 police in Ireland, only around 220 have been trained and recruited as Garda ELOs. In addition, thorough training of *all* police is needed, in terms of understanding, identifying, recording and investigating hate crime.
52. ECRI is also concerned about lack of diversity in the police, with only about 86 members of different ethnic communities in the Garda Síochána, including one Traveller but no Roma. Although the authorities have removed the requirement for applicants to the Garda Síochána to have an academic qualification in the Irish language in order to allow non-nationals and those from minority communities to apply,⁴² it has been revealed that ethnic minority applications to join the police are down to 2.3%, compared with almost 15% nine years ago.⁴³ Critics say this suggests deterioration in the relationship between police and some communities. Indeed ECRI is aware of different accounts of police attitudes to minorities ranging from “indifferent” to “toxic”. ECRI considers it essential to encourage and facilitate diversity in the police so that it reflects the diversity of the population. It refers to its GPR No. 11 on combating racism and racial discrimination in policing, in particular explanatory memorandum §80 which describes different types of positive measures, such as setting targets for recruitment of members of minority groups and monitoring their attainment.
53. On the other hand, ECRI is pleased to note that six Travellers have been trained as mediators to work with police in dealing with conflicts in the community. This initiative has seen promising results and ECRI encourages the recruitment of more Traveller mediators and the extension of the scheme also to Roma.
54. ECRI strongly recommends that 1) ethnic profiling by the police is clearly defined and prohibited by law; 2) all police are thoroughly trained in identifying, recording and investigating hate crime; 3) more Ethnic Liaison Officers and LGBT Liaison Officers are recruited and trained; and 4) diversity in the police is increased to better reflect the diversity of the population.

4. Integration policies

55. The Irish authorities have developed integration policies specifically targeting Travellers and Roma (the National Traveller and Roma Inclusion Strategy 2017-2021) and migrants (the Migrant Integration Strategy “A Blueprint for the Future” 2017-2020). ECRI examines below the situation of these vulnerable groups in light of such policies.

⁴⁰ An Garda Síochána 2018b.

⁴¹ EU FRA 2016.

⁴² According to the Constitution, Irish is the first official language and English the second. Irish is taught in state schools and is required for certain civil service posts. Applicants to the Garda Síochána must have a proven proficiency in two languages, one of which must be Irish or English. Entry is open to all EU, EEA or Swiss nationals as well as anyone from any other state who has lived in Ireland for five years. See www.garda.ie/en/Careers/Why-should-I-join-An-Garda-Siochana-What-are-the-educational-requirements-.html; The Irish Times 2005.

⁴³ Civic Nation 2017.

56. ECRI notes that Ireland has not renewed its National Action Plan against Racism, which ended in 2008. This appears to have left an important vacuum contributing to a “normalisation” of racism. For example, over 80% of Roma respondents in a 2018 survey reported experiencing racism and discrimination.⁴⁴ Other examples of racism targeting Travellers, migrants and Muslims will be provided in the sections below. This is of concern because it ultimately hinders successful integration. While both the above-mentioned strategies address racism and discrimination, these elements are not the main focus. ECRI takes note of the repeated call by civil society groups for the introduction of a new and updated strategy against racism.

57. ECRI recommends that the authorities develop a new and updated strategy against racism, with a strong focus on reducing prejudice against the most vulnerable and targeted communities, including Travellers, Roma, migrants and Muslims.

- **Travellers and Roma**

58. Irish Travellers are an indigenous community (see §61) who were formerly semi-nomadic and some of whom still prefer to live in caravans or mobile homes on halting sites. The total number of Travellers is around 31 000 (0.7% of the total population of the country). There are no official statistics on the number of Roma in Ireland, but it is estimated to be around 4 000 to 5 000 (about 0.1% of the total population). Roma are mostly from Central Europe (Romania, Hungary, Slovakia, Poland and Czech Republic) and came to Ireland fairly recently.⁴⁵

59. The National Traveller and Roma Inclusion Strategy (NTRIS) 2017-2021 was launched in June 2017, following a comprehensive public consultation process, including with Traveller groups. It states at the outset that “Travellers and Roma are among the most disadvantaged and marginalised people in Ireland”. The strategy contains ten central themes (cultural identity, education, employment and the Traveller economy, children and youth, health, gender equality, anti-discrimination and equality, accommodation, Traveller and Roma communities and public services) and 149 specific actions.⁴⁶ A NTRIS Steering Group, chaired by the Minister of State for Equality, Immigration and Integration, was formed to monitor and assess the impact of integration policies, comprising senior officials from a range of government departments and agencies and Traveller and Roma representative organisations. ECRI’s delegation attended a meeting of the NTRIS Steering Group and welcomed the respectful and constructive atmosphere.

- **Policy’s results**

60. According to various interlocutors, Ireland’s NTRIS has the potential to improve the situation of Travellers and Roma if implemented. However, it lacks a clear budget allocation, impact indicators and a time-frame. ECRI also notes the frustration of Travellers and Roma at the lack of accountability of the NTRIS Steering Group. It seems that little tangible progress has been made so far and these groups continue to be the most marginalised communities in Ireland.

61. As concerns Travellers, a notable development occurred in March 2017 when the Prime Minister made a statement formally recognising Travellers as an indigenous ethnic group – a step which Travellers have been advocating for many

⁴⁴ Pavee Point Traveller and Roma Centre & Department of Justice and Equality 2018; The Irish Times 2018a; Irish Examiner 2018.

⁴⁵ Central Statistics Office 2017c.

⁴⁶ Office for the Promotion of Migrant Integration 2017.

years.⁴⁷ ECRI welcomes the significant symbolic effect of the declaration. Nevertheless, it notes that the statement has no legal effect.⁴⁸

62. The Irish Traveller Movement Independent Law Centre closed down at the end of 2014 due to lack of funds. The Law Society of Ireland observed that the centre addressed an unmet legal need through a specialist, dedicated and free legal service, providing legal advice and representation on matters particular to Travellers.⁴⁹ Without this service, Travellers encounter difficulties in accessing justice. ECRI notes that Action 119 of the NTRIS calls for a legal advice and advocacy service for Travellers and Roma.
63. ECRI recommends that the authorities provide funding for reinstating the Traveller Movement Independent Law Centre or establishing a similar body to provide a legal advice and advocacy service for Travellers and Roma.
64. ECRI notes that the 2018 publication *Roma in Ireland - A National Needs Assessment*, by Pavee Point Traveller and Roma Centre and the Department of Justice and Equality, gathered information via a nationwide survey in different areas and identified a range of steps that need to be taken to improve both access to services and the standard of living for the Roma community.
65. Reports indicate that, although the majority of Roma have been in the country for over a decade, they still do not have effective access to many of the rights that they may be entitled to as EU citizens. These include jobseekers allowance, child benefit, medical cards, housing assistance, and access to education and employment. The above-mentioned survey showed that up to one-fifth of Roma were not accessing state services and support; of respondents who applied for social protection over 48% were not successful; and 49% of respondents in households with children were not receiving child benefits.⁵⁰ This is primarily due to the fact that many Roma cannot meet the habitual residence condition because they lack documentation proving the length of time spent in Ireland and their connection with the State.⁵¹ This is particularly worrying as it could be regarded as indirect discrimination and contributes to the spiral of extreme poverty and marginalisation. ECRI urges the authorities to implement the recommendation of the UN Committee on the Rights of the Child to make child benefit a universal payment that is not contingent of the fulfilment of habitual residence condition.⁵²
66. ECRI notes that accommodation is one of the key problems for Travellers. The main objectives of the NTRIS are the adequate provision of accessible, suitable and culturally-appropriate accommodation for Travellers, with a view to ensuring full expenditure of funds allocated for Traveller-specific accommodation. The strategy falls short of recommending sanctions on local authorities which fail to provide Traveller accommodation,⁵³ a penalty which has been sought by Traveller groups, the Irish Human Rights and Equality Commission, the UN Committee on

⁴⁷ European network of legal experts in gender equality and non-discrimination 2017; Phelan K. 2017.

⁴⁸ The Irish Times 2017d.

⁴⁹ Law Society of Ireland 2018.

⁵⁰ The Journal 2017a; Pavee Point Traveller and Roma Centre & Department of Justice and Equality 2018.

⁵¹ The habitual residence test is intended to evaluate if a person has a connection with the Irish State, and is determined by five factors including length and continuity of residence and the nature and pattern of employment. Many Roma fail to meet the conditions due to living with friends or in accommodation without a tenancy agreement or utility bills.

⁵² UN Committee on the Rights of the Child (CRC) 2016.

⁵³ The carrying out of needs assessments and provision of housing are legal requirements under the Traveller Accommodation Act 1998.

the Elimination of Discrimination against Women, as well as ECRI in its fourth report.⁵⁴

67. ECRI regrets that nothing has changed in this respect since its last report. Despite the adoption of multi-annual Traveller Accommodation Programmes, the majority of local authorities have consistently failed to provide adequate and culturally-appropriate accommodation for Travellers, as established by the Council of Europe Committee of Social Rights in 2016.⁵⁵ Not only has funding for these programmes been significantly reduced over the past few years,⁵⁶ but in 2017, out of an overall budget of 9 million euros allocated by the Department of Housing to invest in building and upgrading Traveller-specific accommodation, only 4.8 million euros were drawn down. Only seven local authorities drew down the entire amount they were allocated, while nine councils did not invest any funds at all in accommodation.⁵⁷ ECRI is shocked that the amount of 4.1 million euros of available money was returned unspent, while many Travellers continue to live in squalor and deprivation (see next paragraph).
68. ECRI has been informed that prejudice and opposition from local residents to providing halting sites has translated into lack of political will at the local level to resolve the accommodation needs of Travellers. As there is no provision for sanctions, there is no accountability for under-delivery. ECRI's delegation witnessed the consequences of this situation during a visit to a Traveller site (Saint Mary's) in north Dublin. It was alarmed at the deplorable conditions in which Travellers were living. The site notably had only one water connection point and one toilet facility for fourteen families, including more than 40 young children, and no waste collection services; the living environment was insalubrious and hazardous. Moreover, according to data available from October 2016, approximately 534 Traveller families were living in unofficial roadside camps which present health and safety problems and over 5 500 Travellers were living in overcrowded conditions.⁵⁸ ECRI is deeply concerned by these totally avoidable situations.
69. The authorities informed ECRI that an Expert Review Group will be established to examine the effectiveness and operation of all aspects of the Traveller Accommodation Act 1998 to see whether it provides a robust legislative basis for meeting the current and future accommodation needs of the Traveller Community. The group will examine all legislation that impacts on the provision and delivery of Traveller-specific accommodation, including transient accommodation. ECRI strongly encourages the group to take into account the findings and recommendations in this report.
70. ECRI strongly recommends that the authorities step up efforts to meet the accommodation needs of Travellers, including by improving existing halting sites to meet decent and safe living standards, and by providing adequate accessible, suitable and culturally-appropriate accommodation.
71. ECRI strongly recommends that a solution is found to the issue of failure by local authorities to use funding allocated for Traveller accommodation. Possibilities include imposing dissuasive sanctions on local authorities for failure to spend allocated funding, or removing the responsibility for Traveller accommodation from local authorities and placing it under the authority of a central housing commission.

⁵⁴ Department of Justice and Equality 2017a; The Irish Times 2017b; UN Committee on the Elimination of Discrimination against Women (CEDAW) 2017; ECRI Report on Ireland, fourth monitoring cycle, §92.

⁵⁵ Council of Europe, European Committee of Social Rights 2016; The Irish Times 2016a.

⁵⁶ EU FRA 2016.

⁵⁷ The Irish Times 2018b.

⁵⁸ UN CEDAW 2017; The Irish Times 2016b; The Irish Times 2018e.

72. ECRI notes that the NTRIS contains no actions related to accommodation for Roma. This is a serious shortcoming; the National Needs Assessment revealed that Roma live in overcrowded, sub-standard accommodation with rats, damp and sewage problems. 7.3% of households included more than 10 people; 12.4% of respondents reported not having a kitchen, 9.6% not having a cooker, and 13.5% not having a fridge, while 6.6% were homeless. ECRI considers that the NTRIS needs to be updated to address these findings.
73. With regard to education, the NTRIS details 14 actions in this field, including promoting Traveller and Roma attendance, participation in and engagement with the education system, supporting parental participation in education, and addressing the areas of anti-racism, bullying and cultural awareness. ECRI welcomes the efforts made by the Department of Education and Skills which works together with Traveller and Roma representative groups and other education partners to tackle poor attendance, knowledge retention and progression levels of Traveller and Roma children. A data analysis exercise was started in 2018 to better track the participation and progress of Traveller and Roma children (on the basis of voluntary self-identification) through primary education. ECRI encourages the authorities to pursue these efforts.⁵⁹
74. However, much remains to be done. Only 8% of Travellers have completed education to Leaving Certificate level (compared to 73% of the non-Traveller population).⁶⁰ The NTRIS has been criticised by civil society for failing to address key education issues for Travellers. In addition, there have been significant cuts (up to 87%)⁶¹ in the last decade in education support for Travellers, including the provision of specialised resource teachers which was discontinued in 2011 and the Visiting Teacher Service for Travellers which was replaced with mainstream supports.⁶² ECRI understands that these supports are seen as crucial for Traveller children, many of whom come from homes without a tradition of formal education. There is wide support among Travellers and NGOs for re-introducing these measures.
75. ECRI strongly recommends that the authorities invest more resources in education, in particular by restoring the visiting teacher service and providing specialised resource teachers for Traveller pupils.
76. As for Roma, the National Needs Assessment revealed that only 40% of Roma households with children under the age of five reported that they were attending pre-school, while another report put the figure at around 65%.⁶³ The NTRIS provides for free pre-school for every child from the age of three but Roma appear to be unaware of this right. It has important consequences, given that almost 35% of children in Roma households were born in Romania, the Czech Republic or Slovakia, and language is a significant barrier preventing full engagement in education. Early childhood education is an important determinant of future life opportunities and is essential to break the cycle of intergenerational transmission of poverty.
77. ECRI recommends that the authorities raise awareness of the right to free pre-school education among Roma families, and support and encourage participation in early childhood education, with a view to facilitating the acquisition of English and combatting educational disadvantage.

⁵⁹ Department of Justice and Equality 2017a.

⁶⁰ Watson D., Kenny O. and McGinnity F. 2017.

⁶¹ The Irish Times 2013.

⁶² Department of Justice and Equality 2017a; The Irish Times 2017b.

⁶³ Pobal's Early Years Sector Profile Report 2017/2018, www.pobal.ie/app/uploads/2018/11/Early-Years-Sector-Profile-Report-2017-2018.pdf.

78. As regards health, ECRI, in its fourth report, strongly encouraged the authorities to pursue their efforts to reduce inequalities with regard to health status and access to health care and to monitor the impact of these measures on the Traveller community. The NTRIS sets out 35 actions with objectives in the health care system, including improving access, opportunities, participation rates and outcomes; reducing health inequalities; and reducing the rate of suicides and mental health problems in Traveller and Roma communities.
79. ECRI notes that the life expectancy for Traveller men is 15.1 years and for Traveller women 11.5 years less than for men and women in the general population. Traveller infant mortality is 3.6 times higher, and the suicide rate among Traveller men is 6.6 times higher than in the general population and accounts for 11% of Traveller deaths.⁶⁴ As for Roma, according to the National Needs Assessment, 50% of respondents reported not having a medical card and almost 39% reported not having a General Practitioner.⁶⁵ In households with women who were pregnant, 36% had difficulty accessing maternity services and almost 25% did not visit a doctor or hospital before giving birth.
80. ECRI welcomes the work undertaken within a “social determinants of health” model to address the poor health outcomes of Travellers and Roma, including through targeted annual funding of approximately 10 million euros. The Health Service Executive funds a range of Traveller agencies and groups to deliver agreed actions. As regards the mental health of Travellers, which has been referenced as a significant area of concern, an additional one-off funding of approximately 500 000 euros has recently been made available for the development and implementation of actions in this area.⁶⁶ ECRI also notes that the Second Health Service Executive National Intercultural Health Strategy 2018-2023 was launched in January 2019 addressing the health and support needs of members of diverse ethnic and cultural backgrounds.
81. Overall, therefore, ECRI considers that the NTRIS is a potentially useful strategy with an adequate set of goals, despite some notable gaps as highlighted above. However, many of ECRI’s interlocutors consider that implementation of the strategy is inadequate.
82. ECRI recommends that the authorities update the NTRIS to include actions on housing for Roma, as well as a clear budget allocation, impact indicators and time-frames for all the actions. More efforts should be focused on concrete implementation of the strategy.

- **Migrants**

83. According to the results of the last census held in 2016, the number of non-Irish nationals stood at 535 475, corresponding to 11.6% of the total population. The largest groups were Polish (around 122 500) and UK nationals (around 103 100), followed by Lithuanians (around 36 500), Romanians (around 29 100) and Latvians (19 900).⁶⁷
84. ECRI notes that a revised Migrant Integration Strategy (MIS) “A Blueprint for the Future” was published in February 2017 covering the period up to 2020, following a consultation process with civil society. It is targeted at all migrants who are legally residing in the State, including refugees and those who have become naturalised Irish citizens. The vision of the strategy is that migrants are facilitated to play a full role in Irish society, that integration is a core principle of Irish life and

⁶⁴ Watson D., Kenny O. and McGinnity F. 2017.

⁶⁵ The reasons given for this included not having an address or work, fear of officialdom and experiences of discrimination.

⁶⁶ Office for the Promotion of Migrant Integration 2017.

⁶⁷ Central Statistics Office 2017b.

that Irish society and institutions work together to promote integration. ECRI welcomes the acknowledgement that integration is a two-way process.⁶⁸

85. The strategy contains 76 actions on a variety of themes including citizenship and residency, education, employment, health, political participation, promoting intercultural awareness, combating racism and xenophobia, and sport. Each action sets out the responsible body (government departments, local authorities, public bodies, local communities, the business sector, sporting and arts organisations and NGOs) and the time-frame. The Office of the Promotion of Migrant Integration (OPMI) of the Department of Justice and Equality has a mandate to lead and co-ordinate migrant integration. A monitoring and coordination committee has been set up with senior officials from government departments and agencies and representatives of civil society. The committee, chaired by the Minister of State for Equality, Immigration and Integration, held its inaugural meeting in June 2017 and meets three times a year.⁶⁹

- ***Policies' results***

86. ECRI notes that there are some important gaps in the MIS, such as housing (see §§99-101), and that there is no budget allocated for the actions and no targets or impact indicators. NGOs consider that their proposals were not sufficiently taken into account in the final strategy and that their input in the monitoring committee is minimal. On the other hand, the authorities informed ECRI that good progress has been made, with 67 actions on track.
87. According to the Migrant Integration Policy Index (MIPEX) 2015, Ireland has a “halfway favourable” score with regard to the integration of immigrants with an overall score of 52%.⁷⁰ However, ECRI notes the encouraging results of the more recent Eurobarometer survey, published in April 2018, in which eight in ten respondents felt totally or somewhat comfortable having social relations with immigrants, and over three quarters of respondents agreed that integration of immigrants has been a success in their local area, city or country.⁷¹
88. As concerns education, the MIS includes the following actions: monitor the numbers of non-English speaking migrant children in schools; review the adequacy of supports to cater for the language needs of children from ethnic minorities; review the provision of English classes to cater for the language needs of adults from ethnic minorities; deliver follow-on English programmes to enable migrants to integrate into the workplace. Reports indicate that there are still gaps in reading proficiency between Irish and immigrant primary school children (although there is no significant difference in mathematics scores).⁷² This indicates a clear need for further English-language assistance.
89. ECRI has been informed that a growing issue affecting the integration of immigrants is the fact that the overwhelming majority of schools in Ireland are run by the Catholic Church, though funded by the State (see also ECRI's fourth report §§101-105). Some schools have made efforts to welcome and facilitate non-Catholic immigrant children, but others seem to be giving preference in admissions to children who have been baptised as Catholics. This has led to de facto segregation and clustering of immigrant children in certain schools. Therefore, ECRI welcomes the Education (Admission to Schools) Act, passed in July 2018, which prohibits over-subscribed primary schools from discriminating in the area of school admissions on the basis of religion, thus removing the so-called “baptism barrier”. The provision entered into force in October 2018 and is

⁶⁸ Economic and Social Research Institute (ESRI) 2017; Office for the Promotion of Migrant Integration.

⁶⁹ Department of Justice and Equality 2017; Office for the Promotion of Migrant Integration.

⁷⁰ Migrant Integration Policy Index (MIPEX) 2015.

⁷¹ European Commission 2018: 27, 38, 62, 64.

⁷² ESRI 2017: 14, 17.

now operational for all recognised primary schools. ECRI stresses the importance of establishing a school system which guarantees *all* children equal opportunities in access to education.

90. ECRI recommends that additional English-language assistance is provided to pupils whose mother tongue is not English and that the application of the Education (Admission to Schools) Act 2018 is monitored to ensure that discrimination based on religion no longer occurs.
91. As concerns employment, the MIS contains a number of actions including the following: training programmes specifically catering for unemployed migrants whose language skills require development; support measures to increase the number of persons from an immigrant background working at all levels in the civil service; and an analysis of the extent to which the level of unemployment among jobseekers of African origin exceeds that of other groups and determining what action may be required. ECRI also notes with satisfaction initiatives to encourage the business sector to play a role in promoting integration. The MIS states that 44 companies in Ireland encompassing 103 000 employees have signed up to the Diversity Charter⁷³ to demonstrate their commitment to diversity and that 50 companies will have signed up by January 2017.
92. In 2015 the unemployment rate for non-Irish nationals (at 13%) was slightly higher than that of Irish nationals (under 10%). Of particular concern is the high unemployment rate among migrants from African countries. ECRI therefore welcomes the above-mentioned action to look into this issue and find solutions. Further, the median income of non-Irish nationals in 2014 was lower than that of Irish nationals and the risk of poverty was higher.⁷⁴ ECRI also notes with concern research published in December 2017 revealing that 40% of interviewed migrant crew members working in Ireland's fishing fleet do not feel safe at work due to abusive and intimidating working environments, and have experienced verbal abuse and racism.⁷⁵ ECRI refers to its recommendation in §57.
93. ECRI considers that factors such as access to long-term residence and, ultimately, citizenship are important for successful integration. The current residence policy limits permits to one year (renewable every year). The only way for migrants to achieve security in Ireland is via naturalisation. Five years of continuous residence is required, among other conditions, and there are no language or integration tests. Detailed information as well as the relevant application forms are available on the Irish Naturalisation and Immigration Service website, along with guidance and an on-line residency calculator. According to information provided by the authorities, between 2011 and 2016 around 94 000 people acquired Irish citizenship.
94. ECRI is particularly concerned about one aspect of the MIS: the single reference to Muslims⁷⁶ is in the context of "radicalisation leading to terrorist activity".⁷⁷ ECRI considers that this could reinforce stereotypes and further stigmatise Muslims. Discrimination against Muslims in education, employment, access to goods and services and in treatment by the Garda Síochána was highlighted in research published in 2016.⁷⁸ Community groups described a situation of "normalisation" of

⁷³ The Irish Diversity Charter was launched in October 2012 by 11 organisations representing the business community. The signatories commit to effective diversity management, preventing discrimination and promoting equality with respect to all their stakeholders and the environment in which they operate.

⁷⁴ ESRI 2017: 14-15.

⁷⁵ Migrant Rights Centre Ireland (MRCI) 2017.

⁷⁶ The Muslim population was around 63 400 in April 2016, up from 49 200 (+29%) five years previously, with 43.5% living in Dublin and its suburbs (Central Statistics Office 2017c).

⁷⁷ Department of Justice and Equality 2017b; Carr J. 2017.

⁷⁸ Immigrant Council of Ireland 2016: 5-8.

anti-Muslim prejudice and multiple discrimination faced by Black Muslims. Muslim women wearing visible religious symbols are particularly vulnerable to discrimination and violence due to the intersectionality of gender and religion (see §44), which can lead to feelings of isolation and hinder the building of inclusive societies. ECRI recalls its recommendation in §57.

- **Refugees**

95. There are two categories of refugees in Ireland. First, those who arrive through the UNHCR-led resettlement programme (“programme refugees”) which involves people pre-determined as refugees by the UNHCR. A total of 1 040 such refugees have arrived from Lebanon under the programme. In November 2017, the Minister for Justice and Equality announced that he had increased Ireland’s resettlement commitment for 2018 to 600 refugees and made a new pledge to resettle an additional 600 refugees in 2019. ECRI warmly commends Ireland’s compassionate and generous hosting of these refugees.⁷⁹
96. The second category comprises spontaneous arrivals who have been recognised as refugees via the asylum determination procedure (“convention refugees”). As of 31 December 2017, there were around 6 400 of these refugees and beneficiaries of subsidiary protection living in Ireland. In 2017, the top five countries of origin were Syria (18.6%), Georgia (10.3%), Albania (9.6%), Zimbabwe (9.0%) and Pakistan (6.8%).⁸⁰
97. The Migrant Integration Strategy (MIS) contains two actions specifically referring to refugees: Action 51, calling for the development of a Communities Integration Fund to support actions by local communities to promote the integration of refugees; and Action 55, ensuring that young refugees have access to youth services to enhance their integration.

- **Policies’ results**

98. ECRI is not aware of any integration difficulties experienced by programme refugees. They are placed in Emergency Reception and Orientation Centres (EROC) on arrival. Financial resources are allocated to support them throughout their first year and provide immediate assistance for engagement with schools, health services and housing authorities. They have access to interpretation, language classes and child care, and a resettlement worker is available to each family to help integrate after they leave EROC. ECRI welcomes the support and solidarity shown by local communities, such as in Ballaghaderreen where residents undertook considerable efforts to welcome programme refugees and integrate them into the life of the town.⁸¹
99. Convention refugees, on the other hand, begin their lives in Ireland as asylum seekers accommodated in direct provision centres around the country (ECRI addresses the problems of this system in §§109-117). The main difficulty they face is transitioning out of direct provision once they obtain refugee status. The current housing crisis in Ireland with severe shortage, high rent prices and discrimination against migrants, creates enormous challenges for refugees. Although funding is available via Housing Assistance Payments, there is no available housing. Refugees often have to remain for considerable lengths of time in direct provision accommodation.⁸² The authorities informed ECRI in July 2018 that there were approximately 600 persons with international protection status who were unable to move out of direct provision.

⁷⁹ In addition, the Government pledged in 2015 to accept 2 622 asylum seekers from Greece and Italy under the EU Relocation Programme. See also The Irish Times 2018d.

⁸⁰ The figures were provided by UNHCR.

⁸¹ Pestova N. 2017; The Irish Times 2018c.

⁸² Irish Refugee Council 2016.

100. While ECRI welcomes government funding of pilot programmes aiming at providing assistance to beneficiaries of international protection in finding suitable accommodation,⁸³ it considers these to be insufficient. In view of the overall strained national housing supply that has been pointed out also in other parts of this report, ECRI considers that the authorities should develop a housing strategy to resolve the difficulties experienced by so many vulnerable communities.
101. ECRI recommends the development of a national housing strategy which should notably set out measures to generate supply of affordable housing and combat racial discrimination, with particular attention paid to the needs of all vulnerable communities in the country, including Travellers, Roma, migrants and refugees.
102. ECRI is pleased to note that the Communities Integration Fund was set up and is now in its second year. In 2017, every county in Ireland received funding for locally-run projects to support integration. An implementation report was published describing the 131 projects funded.⁸⁴ In 2018 the Minister of State for Equality, Immigration and Integration announced that 500 000 euros are available to support community organisations, raise intercultural awareness and combat racism in their local areas. ECRI welcomes this initiative as a practical way for local communities and NGOs to assist and support refugees.⁸⁵
103. ECRI recommends that the Migrant Integration Strategy is updated to include a budget allocation for each action along with targets and impact indicators. The reference to Muslims in the context of radicalisation should be removed.

II. Topics specific to Ireland

1. Interim follow-up recommendations of the fourth cycle

104. In its first priority recommendation, ECRI recommended that the authorities draft and adopt as soon as possible the Immigration, Residence and Protection Bill so as to (a) put in place one procedure for dealing with applications for asylum and subsidiary protection; b) introduce a long-term residence status, granting the same rights as those enjoyed by nationals in the field of university education; and (c) introduce procedures for registration of non-national minors under 16. In its 2015 conclusions, ECRI considered that while some steps had been taken to address the above issues, full implementation would require the enactment and entry into force of the relevant legislation, which was at that time still pending. It concluded that its recommendation had been partially implemented.
105. Since then, ECRI notes that the International Protection Act was enacted in 2015 and entered into force on 31 December 2016, providing for a single protection procedure. All applications for international protection are processed under the new arrangements in the International Protection Office. Therefore, part (a) of ECRI's recommendation has now been implemented. As for parts (b) and (c), there have been no developments. The authorities informed ECRI that Ireland is committed to modernising its visa and residency systems. Action 14 of the Migrant Integration Strategy requires the Irish Naturalisation and Immigration Service to introduce arrangements for the registration of non-EEA migrants under 16. ECRI encourages the authorities to resolve these remaining issues.
106. ECRI's second priority recommendation has been dealt with in §§13 and 17.
107. In its third priority recommendation, ECRI recommended that the authorities ensure foreseeability in the application of the habitual residence requirement by setting out clear rules and publishing, in addition to the Guidelines, the decisions

⁸³ See for example JRS PATHS project Providing Asylum-Seekers in Transition with Housing and Support.

⁸⁴ Office for the Promotion of Migrant Integration, Communities Integration Fund 2017, Implementation Report.

⁸⁵ Irish Naturalisation and Immigration Service 2017; UNHCR 2017; Department of Justice and Equality 2018.

of the authorities dealing with appeals against negative decisions based on the requirement in question. ECRI recalls that, following amendments to the Habitual Residence Condition, asylum seekers or those awaiting a decision on leave to remain (i.e. failed asylum seekers) could not be considered habitually resident for the purposes of access to welfare payments. In its 2015 conclusions, ECRI noted that the Irish authorities had only published a very low number of appeal cases and considered that its recommendation had been partially implemented.

108. Since then, ECRI notes that the Social Welfare Appeals Office continues to publish only a small number of case studies in its annual report and on its website.⁸⁶ For instance, while it made decisions in 23 220 cases in 2016, the annual report for that year contained 44 case studies, only six of which dealt with the habitual residence condition. Although Guidelines for Deciding Officers on the application of the habitual residence condition are publicly available on the website of the Department of Employment Affairs and Social Protection,⁸⁷ ECRI considers that the limited publication of appeal decisions continues to hinder foreseeability in how the habitual residence condition is applied and consistency in decision-making.

2. Direct Provision

109. In its fourth report, ECRI expressed concern about the direct provision system and recommended that the authorities conduct an in-depth systematic review of the policy of direct provision, with a view to allowing asylum seekers greater control of their everyday life, and that they consider creating an alternative system that would promote independence, ensure adequate living conditions and address the cultural, economic, health, legal and social needs of asylum seekers.
110. ECRI recalls that direct provision is a reception system for asylum seekers awaiting decisions on their asylum applications. It ‘directly provides’ essential services, medical care, accommodation and full board in 35 centres around the country. While it is overseen by the Reception and Integration Agency (RIA) of the Department of Justice, the majority of the centres are privately owned and operated.⁸⁸ Currently some 4 500 people live in these centres, around one quarter of whom are children.
111. ECRI welcomes the publication of the “McMahon Report” in June 2015 by the working group set up by the Government to assess the protection process and make recommendations for improvements.⁸⁹ This followed many years of campaigning by NGOs and protests by residents in several centres, which attracted wide media attention and generated public sympathy.⁹⁰ The report identified issues of concern relating to the conditions in direct provision centres and made recommendations for practical improvements aimed at showing greater respect for the dignity of residents and improving their quality of life.
112. The report highlighted that 43% of residents had lived in direct provision for more than five years and that length of stay was their key concern. It also noted that living standards and conditions in the centres varied widely. Only two were self-catering and only three were built for the purpose of accommodating asylum seekers; the others were former hotels, hostels, schools or holiday homes, and sometimes consisted of dormitory-style accommodation. Sleeping areas were generally overcrowded and lack of living space was a problem for families; parents frequently shared one room with their children. The inability to conduct

⁸⁶ www.socialwelfareappeals.ie.

⁸⁷ www.welfare.ie/en/Pages/Habitual-Residence-Condition--Guidelines-for-Deciding-Offic.aspx.

⁸⁸ The Irish Immigrant Support Centre (nasc).

⁸⁹ Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers 2015.

⁹⁰ The Irish Immigrant Support Centre (nasc).

normal family life was a major concern, with lengthy institutionalised living being detrimental to the welfare of children.⁹¹ The centres were located in rural settings resulting in boredom and isolation. The report also highlighted serious concerns over the safety of LGBT asylum seekers, who experienced harassment and threats from other residents as well as negative attitudes and verbal abuse from staff. The cumulative effect of these hardships had a considerable impact on the mental and emotional well-being of the residents. One provider described life within the centres as “a hellish existence”.

113. ECRI welcomes the efforts made to address some of the above issues. The introduction of a single protection procedure under the International Protection Act 2015 (see §105) is intended to accelerate the processing of asylum applications and reduce the amount of time spent in direct provision.⁹² ECRI notes however that there continues to be a heavy backlog with considerable delays in the processing of cases. As of 30 January 2018, non-prioritised protection applications were estimated to take approximately 19 months to get to first interview stage.⁹³ By December 2018, this had been reduced to eight to 10 months, according to the authorities.
114. Moreover, until very recently, asylum seekers were not allowed to work, which contributed to their enforced idleness and created problems of dependency.⁹⁴ As of June 2018 asylum seekers who have been in Ireland for a period of nine months are now permitted to work. This positive development should be coupled with efforts to assist asylum seekers access the labour market and find alternative housing.
115. ECRI is also pleased to note that the recommendations to improve the physical conditions in direct provision are also beginning to be implemented. Cooking facilities have been provided in a number of centres, which has been overwhelmingly well received by residents.⁹⁵ The authorities informed ECRI that all centres would be self-catering by 2019. ECRI’s delegation visited the centre in Mosney, which is one of the positive examples. It provides individual self-contained and recently-renovated houses for each family. Asylum seekers are given a card which allows them to purchase food products on a credit points-based system. Facilities in the centre include a launderette, a day-care centre, sports facilities and a beauty salon. ECRI encourages the authorities to extend the good practices established in Mosney to the other centres across the country.
116. While ECRI understands that an alternative to direct provision, which might involve asylum seekers receiving financial assistance to live in accommodation of their choice and which would solve many of the issues raised above, is unforeseeable at present due to the housing crisis, it considers that this option, together with the development of a national housing strategy as recommended in §101, should be borne in mind.
117. ECRI strongly recommends that sufficient resources are invested in ensuring that asylum applications are processed more efficiently in order to reduce time spent in direct provision; that efforts are made to assist asylum seekers to access the labour market and find alternative housing; that solutions are found to LGBT concerns in direct provision and that the good practices employed in the Mosney direct provision centre are extended to other centres around the country.

⁹¹ The Irish Immigrant Support Centre (nasc).

⁹² The single procedure came into effect on 31 December 2016.

⁹³ Minister for Justice and Equality, Response to parliamentary question, 30 January 2018, www.justice.ie/en/JELR/Pages/PQ-30-01-2018-274.

⁹⁴ Pestova N. 2017.

⁹⁵ Ombudsman 2018.

3. Policies to combat discrimination and intolerance vis-à-vis LGBT⁹⁶

- Data

118. ECRI notes that there are no official data on the size of the LGBT population in Ireland. In a public poll organised in 2015, 4% of respondents described themselves as L, G or B. In a survey of 8 000 young adults aged between 17 and 25, a total of 8% identified themselves as L, G or B. It is estimated that the current LGBT population in the country is around 6%.⁹⁷ According to the 2016 census, the number of same-sex couples was 6 034 and there were 591 same-sex couples with children.⁹⁸ In the period from November 2015 (when marriage-equality legislation came into effect) to the end of 2016, a total of 1 147 same-sex marriages took place in Ireland.⁹⁹
119. There are limited data collection methods at the moment and no reliable data exist. Several interlocutors indicated they feel this is a significant gap and without such statistics there is a risk of inappropriate investment of public resources. ECRI notes that one of the strategic goals of the LGBTI+ National Youth Strategy is data collection (see §129) and it was informed that the Central Statistics Office was working on this matter together with the Department of Children and Youth Affairs. New questions on gender identity and sexual orientation have been developed for use in the Equality Module of the General Household Survey which will be carried out in early 2019. ECRI encourages the authorities to conduct systematic data collection and research on LGBT persons in Ireland.

- Legislative issues

120. As noted above, the criminal legislation on incitement to hatred covers the ground of sexual orientation but not gender identity, and there is no provision for any hate motivation to be taken into account as aggravating circumstances. ECRI refers to its recommendation in §35.
121. ECRI is pleased to note that discrimination on grounds of sexual orientation is explicitly prohibited by the Employment Equality Acts 1998-2011 and the Equal Status Acts of 2000-2015. Discrimination on grounds of gender identity is covered by the term “gender” included in these acts and there is case law to this effect.¹⁰⁰ However, ECRI considers that gender identity should be explicitly included in the acts.
122. ECRI recommends that the Employment Equality Acts and the Equal Status Acts are amended to explicitly include the ground of gender identity.
123. ECRI welcomes the legislative advances made over the last decade in LGBT equality. In 2010, the Civil Partnership and Certain Rights and Obligations of Cohabitants Act granted the right to registered same-sex partnership.¹⁰¹ In 2015, following approval (62%) in a referendum, same-sex marriage became legal and the Constitution was amended to provide that marriage is recognised irrespective of the sex of the partners. ECRI is pleased to note that married same-sex couples have the same rights as married heterosexual couples in all areas of life.
124. ECRI is also pleased to note that in December 2015 the Parliament passed an amendment to the Employment Equality Act removing the possibility for religious-run schools to dismiss teachers and staff on the sole basis of their sexual

⁹⁶ For terminology, see the definitions set out in Council of Europe Commissioner for Human Rights 2011.

⁹⁷ The Irish Times 2015a.

⁹⁸ Central Statistics Office 2017a: 41.

⁹⁹ Irish Examiner 2017a.

¹⁰⁰ The Equality Authority: 5.

¹⁰¹ Marriage Equality 2015.

orientation and/or gender identity.¹⁰² Another significant development is a cross-party motion on measures to “recognise the wrongs” done to those convicted of homosexuality in Ireland in the past. In June 2018, the Minister for Justice apologised to members of the LGBT community who suffered as a result of the criminalisation of homosexuality.¹⁰³

125. ECRI welcomes the enactment of the Gender Recognition Act 2015, which allows transgender persons to officially register their change of name and gender through self-determination, without the requirement of medical intervention or assessment.¹⁰⁴ Within the first six months following the entry into force of the act, some 113 transgender persons were legally recognised.¹⁰⁵ The act provided for a review after two years and in June 2018 this was still underway. ECRI was informed that transgender NGOs had made submissions to the review body, proposing notably to amend the restrictions for young transgender persons aged between 16 and 18 and to add provisions concerning children younger than 16.

- **Promoting tolerance and combating discrimination**

126. On ILGA Europe’s Rainbow Europe Map reflecting European countries’ legislation and policies guaranteeing LGBT human rights, Ireland’s score has progressed from 30% in 2010 to 52% in 2018.¹⁰⁶ In parallel with the advances in legislation discussed above, many reports and interlocutors indicated considerable advances in public opinion on LGBT rights. For example, Eurobarometer 2015 results indicate that 87% of people totally agreed with the statement that LGB people should have the same rights as heterosexual people. In addition, 92% of participants said they would be comfortable or moderately comfortable with an LGB work colleague and 86% with a transgender work colleague.¹⁰⁷ ECRI notes that prominent public figures such as the Prime Minister and the Minister for Children and Youth Affairs in the current government are openly homosexual.
127. In education, research conducted in 2016 found that young LGBT persons experience bullying at school, fear of rejection and discrimination, violence and negative attitudes.¹⁰⁸ Similarly, in an online government survey conducted in 2017 (which included over 4 000 LGBT participants aged between 16 and 25), one in five of the participants (20%) reported experiencing bullying and harassment in recent years.¹⁰⁹ In this context, ECRI is pleased to note some good practices. The 400-pupil Educate Together Balbriggan National School has adopted an inclusive approach which aims to be a model of best practice around positive representation of LGBT pupils and their families.¹¹⁰ In 2016, comprehensive guidelines for post-primary schools on Being LGBT in School were published to help prevent homo/transphobic bullying and support LGBT pupils.¹¹¹
128. In health care, ECRI notes that gender reassignment surgery is currently not performed in Ireland but can be arranged in another country (generally in the United Kingdom) under the treatment abroad scheme of the National Health

¹⁰² The Journal 2015; Equality (Miscellaneous Provisions) Act 2015.

¹⁰³ Ireland passed legislation which decriminalised homosexuality on 24 June 1993. Some 50 people were convicted before this date. The Journal 2018; RTE 2018b.

¹⁰⁴ The Guardian 2015; Gender Recognition Bill 2015; Transgender Europe (TGEU) 2018.

¹⁰⁵ The Journal 2016a.

¹⁰⁶ ILGA Europe 2018.

¹⁰⁷ ILGA-Europe 2016: 92.

¹⁰⁸ RTE 2016; The Journal 2016b.

¹⁰⁹ The Journal 2017b.

¹¹⁰ Irish Independent 2017b.

¹¹¹ Gay and Lesbian Equality Network (GLEN) 2016.

Service of Ireland (HSE).¹¹² The HSE has a special unit dealing with transgender persons and is actively engaged in training and awareness-raising activities. For example, in December 2015, it hosted the first National Transgender Healthcare Conference in partnership with Transgender Equality Network Ireland (TENI) which was attended by over 380 health care professionals.¹¹³ In May 2017, the HSE launched a transgender information booklet for General Practitioners.¹¹⁴

129. ECRI welcomes the LGBTI+ National Youth Strategy 2018-2020 launched by the Ministry for Children and Youth Affairs in June 2018. This was the result of an extensive consultation process involving thousands of young people and those who work with them and on their behalf. The strategy focuses on identifying precise and measurable actions and timescales for the achievement of three goals: to create a safe, supportive and inclusive environment for LGBTI+ young people; to improve their physical, mental and sexual health; and to develop the research and data environment to better understand their lives.¹¹⁵
130. In addition, the Government has commenced the development of an overall LGBTI Inclusion Strategy which will identify specific areas of society and policy (such as sports and health) in which difficulties still present for LGBTI people, building on the recommendations of the LGBTI+ National Youth Strategy. ECRI encourages the authorities to complete work on the strategy and an action plan, in close cooperation with relevant civil society organisations.

¹¹² The Irish Times 2017a.

¹¹³ Transgender Equality Network Ireland (TENI) 2015.

¹¹⁴ Health Service Executive (HSE) 2017.

¹¹⁵ Department of Children and Youth Affairs 2018: 13.

INTERIM FOLLOW-UP RECOMMENDATIONS

The two specific recommendations for which ECRI requests priority implementation from the authorities of Ireland are the following:

- ECRI strongly recommends that a solution is found to the issue of failure by local authorities to use funding allocated for Traveller accommodation. Possibilities include imposing dissuasive sanctions on local authorities for failure to spend allocated funding, or removing the responsibility for Traveller accommodation from local authorities and placing it under the authority of a central housing commission.
- ECRI strongly recommends that new hate speech and hate crime legislation is enacted in consultation with relevant civil society actors. Inspiration should be taken from ECRI's GPR Nos. 7 and 15, and hate based on the following grounds should be included: race, colour, ethnic/national origin, citizenship, language, religion, sexual orientation and gender identity.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report

LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§ 2) ECRI reiterates its recommendation to ratify Protocol No. 12 to the European Convention on Human Rights.
2. (§ 8) ECRI recommends that Irish criminal law is amended to include the following offences: public incitement to violence and to discrimination and defamation against a person or group on grounds of their race, colour, language, religion, citizenship, or national or ethnic origin; the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a group of persons on grounds of their race, colour, language, religion, nationality or national or ethnic origin; the public denial, trivialisation, justification or condoning of crimes of genocide, crimes against humanity or war crimes; the creation or leadership of a group which promotes racism, support for such a group and participation in its activities; and racial discrimination in the exercise of one's public office or (private) occupation. The legislation should apply to individuals as well as groups, the ground of language should be inserted, and the elements of intention to or likelihood of stirring up hatred should be removed. The law should also be amended to provide that racist and other hate motivation constitutes an aggravating circumstance for all criminal offences and is taken into account in sentencing.
3. (§ 17) ECRI recommends that the Equal Status Acts and Employment Equality Acts are amended to include segregation, inciting another to discriminate and aiding another to discriminate as forms of discrimination, as well as a duty on public authorities to ensure that parties to whom they award contracts, loans, grants or other benefits respect and promote a policy of non-discrimination. The authorities should also streamline procedures so that all discrimination cases, on all grounds and in all areas, are dealt with by the Workplace Relations Commission (WRC); ensure that legal aid is available for proceedings before the WRC for cases involving discrimination and equality; consider renaming the WRC to something more representative of its broad functions; and ensure that legislation provides for the possibility of dissolution of organisations which promote racism.
4. (§ 26) ECRI strongly recommends that an improved mechanism for collecting disaggregated data on hate crime, including hate speech, is established. Data should be systematically recorded on the hate motive invoked at all stages of investigation, prosecution, conviction and sentencing. These data should be made available to the public.
5. (§ 35) ECRI strongly recommends that new hate speech and hate crime legislation is enacted in consultation with relevant civil society actors. Inspiration should be taken from ECRI's GPR Nos. 7 and 15, and hate based on the following grounds should be included: race, colour, ethnic/national origin, citizenship, language, religion, sexual orientation and gender identity.
6. (§ 46) ECRI strongly recommends setting up alternative mechanisms to encourage victims to report hate crime incidents, such as third-party reporting systems or dedicated telephone lines, in cooperation with relevant NGOs.
7. (§ 54) ECRI strongly recommends that 1) ethnic profiling by the police is clearly defined and prohibited by law; 2) all police are thoroughly trained in identifying, recording and investigating hate crime; 3) more Ethnic Liaison Officers and LGBT Liaison Officers are recruited and trained; and 4) diversity in the police is increased to better reflect the diversity of the population.

8. (§ 57) ECRI recommends that the authorities develop a new and updated strategy against racism, with a strong focus on reducing prejudice against the most vulnerable and targeted communities, including Travellers, Roma, migrants and Muslims.
9. (§ 63) ECRI recommends that the authorities provide funding for reinstating the Traveller Movement Independent Law Centre or establishing a similar body to provide a legal advice and advocacy service for Travellers and Roma.
10. (§ 70) ECRI strongly recommends that the authorities step up efforts to meet the accommodation needs of Travellers, including by improving existing halting sites to meet decent and safe living standards, and by providing adequate accessible, suitable and culturally-appropriate accommodation.
11. (§ 71) ECRI strongly recommends that a solution is found to the issue of failure by local authorities to use funding allocated for Traveller accommodation. Possibilities include imposing dissuasive sanctions on local authorities for failure to spend allocated funding, or removing the responsibility for Traveller accommodation from local authorities and placing it under the authority of a central housing commission.
12. (§ 75) ECRI strongly recommends that the authorities invest more resources in education, in particular by restoring the visiting teacher service and providing specialised resource teachers for Traveller pupils.
13. (§ 77) ECRI recommends that the authorities raise awareness of the right to free pre-school education among Roma families, and support and encourage participation in early childhood education, with a view to facilitating the acquisition of English and combatting educational disadvantage.
14. (§ 82) ECRI recommends that the authorities update the NTRIS to include actions on housing for Roma, as well as a clear budget allocation, impact indicators and time-frames for all the actions. More efforts should be focused on concrete implementation of the strategy.
15. (§ 90) ECRI recommends that additional English-language assistance is provided to pupils whose mother tongue is not English and that the application of the Education (Admission to Schools) Act 2018 is monitored to ensure that discrimination based on religion no longer occurs.
16. (§ 101) ECRI recommends the development of a national housing strategy which should notably set out measures to generate supply of affordable housing and combat racial discrimination, with particular attention paid to the needs of all vulnerable communities in the country, including Travellers, Roma, migrants and refugees.
17. (§ 103) ECRI recommends that the Migrant Integration Strategy is updated to include a budget allocation for each action along with targets and impact indicators. The reference to Muslims in the context of radicalisation should be removed.
18. (§ 117) ECRI strongly recommends that sufficient resources are invested in ensuring that asylum applications are processed more efficiently in order to reduce time spent in direct provision; that efforts are made to assist asylum seekers to access the labour market and find alternative housing; that solutions are found to LGBT concerns in direct provision and that the good practices employed in the Mosney direct provision centre are extended to other centres around the country.
19. (§ 122) ECRI recommends that the Employment Equality Acts and the Equal Status Acts are amended to explicitly include the ground of gender identity.

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