

To the **Office for the Promotion of Migrant Integration/Department of Justice & Equality**
on the **State`s Draft Combined 5th 6th & 7th Report in Response to the Recommendations**
of the **United Nations Committee on the Elimination of Racial Discrimination**

- **Submission by the Traveller Visibility Group, Cork (TVG) -**

January 2018

Traveller Ethnicity

The Department`s response mistakenly refers to the “*Legal recognition of Travellers as an ethnic minority in 2017*” (p2). While the Irish state finally and formally recognised the reality of Traveller ethnicity, the government has been adamant, that there were no legal implications associated to this `symbolic` recognition. This is the -unfortunate - reality of ethnicity recognition at this point in time.

We welcome the Department`s response to Paragraph 12, talking of a “*new platform for positive engagement and dialogue*” and reference to “*a new beginning*” (p11), and propose that changes **to give legal effect to Traveller ethnicity recognition should be added and named** here.

Traveller Accommodation

Paragraph 13 refers to “*concrete measures*” to be undertaken to “*improve*” the welfare of Travellers in a number of key areas including housing (p11). The Departments response regarding this, references commitments under NTRIS (p12) and the review of the Traveller Accommodation Act, ringfenced budgets and “*mechanisms to monitor progress*” (p13).

The responses provided are inadequate in terms of being “*concrete measures*”. The NTRIS commitments on Traveller accommodation are noticeably poor and vague, compared to the other chapters in NTRIS. A review of the Act is very much welcomed by TVG, but needs to be viewed in the context of a previous review in 2006, which led to no meaningful changes whatsoever. We welcome ringfenced budgets, but for ringfencing to have meaning, it needs to be at an appropriate level. The ringfenced budget for Traveller accommodation is still well below the pre-austerity level. Furthermore there has been quite a degree of public discourse in highlighting the failure to even locally draw down and spend funding approved for Traveller accommodation. These deficiencies have been evidenced recently in the Research Report on Traveller Accommodation Spent (commissioned by the Housing Agency).

The state`s response should include **a commitment to return to a ring-fenced budget for Traveller accommodation to the pre-austerity level**. The state should also **commit to immediately develop a system to ensure allocations for Traveller accommodation are speedily processed, drawn down and spent**, while committing itself to the **implementation of the outcomes of the review of the Traveller Accommodation Act**.

Gardai

Paragraph 18 recommends “to adopt legislation that prohibits any form of racial profiling”. The state’s draft response states “An Garda Siochana does not, as an institution engage in discriminatory profiling” (p18), but does not provide any evidence to support this assertion.

The TVG very much welcomes GRIDO, and has developed a good, tentative working relationship with this office. However we are concerned about the limited impact a small, marginalised, Dublin-based office, can possibly have on a large police force across the country. Anecdotal evidence and the experience of Travellers point towards a practice of racial profiling and the racialisation of Travellers. This is evidenced by gardai – sometimes – supporting illegal actions, e.g. by supporting the eviction of Traveller families by local authorities, without seeking their own legal counsel as to the legality of such evictions, the discriminatory, targeted use of CCTV against Travellers, the frequent, unwarranted use of the Armed Response Unit in raids of Traveller halting sites (where every single unit gets raided - a practice that would never be repeated in housing estates populated by settled people), inappropriate recordings on the PULSE system, etc.. Furthermore we point to the illegal planting of guns on a Traveller halting site (as uncovered by the Morris Tribunal), and the removal of Roma children from their families in both Dublin & Athlone some years ago, following a media spectacle that proved both entirely unwarranted and traumatising for the families involved.

In view of the above (and the fact that the gardai are excluded from most of the protections contained in the Equal Status Acts), we concur with the UN Committee, that **there is a need to introduce “legislation proscribing racial profiling”**, and this should be committed to in the state’s final response.

Political Engagement

Paragraph 14 refers to “affirmative action to improve the representation of the Traveller community in political institutions”, and specifically names Dail Eireann & Seanad Eireann as two areas for such representation (p15).

The Department’s response refers to its funding support to Minceir Whiden. While we very much welcome the support of the state to Minceir Whiden, we fail to see how this responds directly to the issues raised by the UN Committee. While direct `affirmative action` measures regarding Traveller representation in Dail Eireann might require constitutional change via a referendum, we do not think the same applies to Seanad Eireann. Affirmative action measures could and should be instituted here similar to an `Irish Diaspora` seat in Seanad Eireann, which has evolved on a de-facto basis over a number of Seanad terms. Minceir Whiden could act as a selecting/nominating body in this regard, but a **commitment to affirmative action regarding Traveller representation in Seanad Eireann should be named in the state’s response.**

Education

There have been instances of school enrolment policies discriminating against Traveller in accessing education. A history of Traveller educational disadvantage is being perpetuated by access policies, favouring siblings or children of students/former students. Such **discriminatory practices need to be outlawed** (Paragraph 26, p 26/27).

The state's draft document states that "*Ireland adopts a policy of mainstream service provision*" (p34). In line with this stated commitment, **the state should commit itself to mainstreaming Yellow Flag multicultural schools diversity programme** (Paragraph 13, p 11 & 14).

Anti-Racism & Anti-Hate Crime

The UN committee raises the issue of "*strengthening the protection of all people from racial discrimination*" in Paragraph 15, and further notes that progress has "*stalled*" (p15).

Once more, the state refers to the Prohibition of Incitement to Hatred Act, and commits "*to review current legislation*" (p16). The Incitement to Hatred legislation is on the statute book for close to 30 years, and has proven to be of very little practical use over the last three decades. The commitment to review the act must be going back about 15 years by now, and it is long overdue that it actually takes place.

The state needs to commit itself to **a review of the Incitement of Hatred legislation, within a tight timeframe** outlined. Wider anti-hate crime considerations should be included in such a review, and **necessary amendments and new anti-hate crime legislation** should be introduced within a named timeframe. These legislative developments should be mirrored at a policy level by the **introduction of a new National Plan Against Racism** (Paragraph 29, p30/31), which should include relevant elements from NTRIS, as well as a commitment to the mainstreaming of the Yellow Flag Programme.

Wider Issues

TVG is a community development organisation, and as such we work in **solidarity** with our allies, working with other marginalised communities. We would like to add our voice to the issues raised by our partners regarding Direct Provision, family reunification, unaccompanied minors, the right to work and other issues affecting asylum seekers, refugees and migrants (including Roma).

The government should further formally recognise the **competence of CERD**, and enable the CERD Committee to **investigate individual complaints**.