



## **Pavee Point**

### **Response to the Consultation by the Working Group on the establishment of the Human Rights and Equality Commission**

November 2011

## Introduction

Pavee Point welcomes this opportunity to contribute to the consultation being undertaken by the Working Group on the establishment of the new, enhanced Human Rights and Equality Commission.

Pavee Point is a voluntary, or non-governmental, organisation committed to the attainment of human rights for Irish Travellers since 1985. The group is comprised of Travellers and members of the majority population working together in partnership to address the needs of Travellers as a minority group experiencing exclusion and marginalisation. Pavee Point has also had a Roma Project since 2000.

## The Situation of Travellers and Roma in Ireland<sup>1</sup>

Travellers and Roma are distinct groups but they share a nomadic tradition and its associated lifestyle, culture and values. Unfortunately, they also share a long history of persecution, rejection and social ostracism. Irish Travellers would not identify themselves as “Roma”; however at a European level, the word “Roma” is used as an umbrella term and is understood to include Irish Travellers.

Travellers are a minority ethnic group, indigenous to the island of Ireland. Travellers maintain a shared history, language, traditions and culture. Nomadism was an integral part of Traveller culture, but many Travellers are no longer nomadic, either by choice or due to the lack of support for and criminalisation of nomadism.

The All Ireland Traveller Health Study found that there were 36,224 Travellers living in the Republic of Ireland at the time of the census in 2008.<sup>2</sup> This is significantly higher than previous figures from the national census of the population; for example in 2006 the census recorded 22,435 Travellers resident in the State.

In a report on his visit to Ireland, Thomas Hammarberg, Council of Europe Commissioner for Human Rights, stated that: “Travellers have been subjected to discrimination and racism in the fields of education, employment, housing, healthcare, media reporting and participation in decision making”.<sup>3</sup>

“The Roma are the most disadvantaged migrant community in Ireland.”<sup>4</sup> The Roma communities in Ireland refers to people of Roma ethnicity, thought to be mainly migrants from Romania. The majority of Roma have migrated in recent years and include Roma seeking asylum in Ireland. (Many Roma currently in Ireland find themselves in a legal limbo post accession in 2007). Estimates of the Roma population in Ireland vary. Pavee Point’s Roma Project estimate that at least 3,000 Roma currently live in Ireland and can fall into a

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<sup>1</sup> Additional background information on Travellers and Roma is available in the Appendices.

<sup>2</sup> Kelleher et al (2010) *Our Geels All Ireland Traveller Health Study*. University College Dublin, Department of Health and Children.

<sup>3</sup> Council of Europe (2007) *Report by the Commissioner for Human Rights, Mr Thomas Hammarberg on his Visit to Ireland, November 2007*, available at:

<http://www.dfa.ie/uploads/documents/Political%20Division/final%20report%20ireland.pdf>

<sup>4</sup> Pavee Point Roma Project [http://www.paveepoint.ie/progs\\_roma.html](http://www.paveepoint.ie/progs_roma.html)

number of categories depending on their status in Ireland. Some Roma have no entitlements to social welfare support in Ireland and live in situations of extreme poverty.

## Recommendations for the New Commission

### What do people want the new body to do?

The new body should ensure that Travellers' and Roma human rights are respected and realised and that Travellers and Roma experience equality of outcomes in Irish society. The focus should be not only on civil and political human rights, but also on economic, social and cultural rights. For example, Travellers' human rights in the area of health, housing, education and employment are consistently not realised, despite issues in these areas having been identified over a number of decades.

### What features and functions does it need to do these things?

Whilst the existing Equality Authority (EA) and Irish Human Rights Commission (IHRC) have been important in protecting and promoting the rights of Travellers, there still remains entrenched racism, including institutional racism, towards Travellers, inequality of outcomes for Travellers and infringements of Travellers' human rights. To date, Roma have not been differentiated from other migrant groups; however, it is clear that they experience particular disadvantages and discrimination, including their experience in their countries of origin.

Therefore it is important that the current remit of the EA and IHRC is not diluted, rather that their powers are enhanced. A dedicated focus on both Roma and Traveller communities is also required and new approaches must be considered in order to make a "tangible difference"<sup>5</sup> to the lives of Travellers and Roma in Ireland.

A number of specific recommendations in this regard are as follows:

- Ensuring that commitments in the Good Friday Agreement are honoured in relation to protecting human rights and promote equality, including the obligation to ensuring parity of rights north and south. Two specific examples of this are:
  - Removing restrictions on equality legislation so that it applied uniformly to the services and functions of all public sector organisations (including An Garda Síochána). Equality legislation in Northern Ireland, including the *Race Relations (Northern Ireland) Order 1997*<sup>6</sup>, does apply to public authorities and the Police Service of Northern Ireland. Travellers and Roma experience direct and indirect discrimination in a number of areas including housing, social welfare, and policing.
  - The introduction of a "positive duty" on public sector organisations to have due regard to equality and human rights in carrying out their functions in line with *Section 75 of the Northern Ireland Act 1998*.

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<sup>5</sup> European Commission (2011) "An EU Framework for National Roma Integration Strategies up to 2020". COM(2011) 173/4

<sup>6</sup> As amended by the Race Relations Order (Amendment) Regulations (Northern Ireland) 2003 and Race Relations Order (Amendment) Regulations (NI) 2009.

- The introduction of positive action under equality legislation, particularly in relation to employment. This approach has been successfully used in Northern Ireland for a number of years and although it was provided for in EU Directives, this element of the directives does not seem to have been implemented in the Republic of Ireland. This would be a significant improvement on the piecemeal and small-scale approach to Traveller employment in the public sector that has been adopted to date.<sup>7</sup> According to the 2006 Census of the population only 14% of Travellers aged 15 years and over was described as “at work”, compared with 53% of the general population aged 15 years and over.<sup>8</sup>
- The introduction of “Traveller and Roma proofing” of all new legislation and policies throughout the public sector. This may be incorporated within a broader equality and human rights proofing or impact assessment that takes account of all nine grounds under the legislation. It is felt that this approach would have identified a number of pieces of legislation and policies in the past which were directly or indirectly discriminatory such as *the Housing (Miscellaneous) Provisions Act 2002* which has been widely criticised for its negative impact on Travellers.<sup>9</sup>
- Facilitating and supporting data collection related to the “nine grounds” and in particular ethnicity data on Travellers and Roma by public authorities. To date, no data is collected on Roma people in Ireland and as a result, there is no clear understanding of the size of the communities and where they live in terms of ensuring appropriate services. It is important to state that Pavee Point promotes ethnic monitoring but not for the purposes of racial profiling. Data of this nature would allow the Commission to have a role in monitoring equality and human rights outcomes for equality groups; for example in areas such as education, and to address gaps through targeted initiatives.
- It is important that the new Commission include the mandate of the National Consultative Committee on Racism and Interculturalism (NCCRI). The NCCRI brought significant expertise in anti-racism and interculturalism and Pavee Point is concerned that the focus on racism could be lacking in a new Commission which not only covers the nine grounds of the equality legislation, but also the entire remit of human rights. The NCCRI worked as a partnership between civil society organisations and Government and it is felt that this was an important approach to adopt and that the new Commission should work closely with “equality groups” and their representative organisations. Also, it was explicitly inclusive of Travellers, which has not been true of the Office of the Minister for Integration which became the Office

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<sup>7</sup> These include the Department of Justice, Equality and Law Reform/Pobal Interagency fund which has led to the registration of 15 companies and three sole traders, has supported up to 100 jobs and relevant training for Travellers and the Department of Finance Traveller Internship programme, which is not currently in operation.

<sup>8</sup> Central Statistics Office, *2006 Census Results*. Available at: [http://www.cso.ie/census/census2006results/volume\\_5/vol\\_5\\_2006\\_complete.pdf](http://www.cso.ie/census/census2006results/volume_5/vol_5_2006_complete.pdf) and [http://www.cso.ie/census/Census2006\\_Principal\\_Socio\\_economic\\_Results.htm](http://www.cso.ie/census/Census2006_Principal_Socio_economic_Results.htm)

<sup>9</sup> ECRI (2007) *Third Report on Ireland*, p.6 and UN Human Rights Committee (2008) *Concluding Observations of the Human Rights Committee*. CCPR/C/IRL/CO/3 (para. 23)

for the Promotion of Migrant Integration; therefore it is important that the new Commission include Travellers in its work on anti-racism and interculturalism.

- The new Commission should also adopt the NCCRI 'developmental' approach in being proactive and consulting with Travellers, Roma and other minority ethnic groups in undertaking their business.
- The new Commission must be accessible. All members of the public, including Travellers and Roma, should be able to contact the new Commission and ask for advice in relation to their rights under equality and human rights legislation. It is important that the role of the Commission is promoted and advertised around the country.
- There should be a users' forum established by the new Commission to ensure on-going dialogue between the Commission and the groups covered under the nine grounds.
- The Commission should have the capacity to take on individual cases and represent people (not only acting as amicus curiae in limited numbers of cases of interest). This has happened to some extent with the EA, but the IHRC has had a very limited role in this regard. This role could be very important to assist Travellers in realising their human rights, for example the right to housing and education.
- Given the lack of cases handled by the IHRC and the reduction in cases handled by the EA in recent years, together with the unacceptable backlog in cases before the Equality Tribunal, consideration should be given to a more streamlined and accessible mediation / conciliation role for the new Commission. In this role, the Commission would try to resolve complaints of breaches of both human rights and equality legislation without having to resort to more time consuming and costly remedies through the courts (as is currently the case for human rights issues and appeals of equality cases) and the Equality Tribunal. In countries where this approach is used, such as Australia, it is found that the majority of cases can be resolved in this way and only those that cannot be resolved are passed on to a Tribunal / Court.
- As there are now combined equality and human rights bodies in other jurisdictions (including the UK, Denmark and Australia), it is recommended that contact is made with them to identify lessons learnt, best practice etc..
- The new Commission must be adequately funded in line with the *Paris Principles*.

### **How should it be structured and what working methods should it use to achieve the above?**

- The Board of the new Commission should be based on open competition – the positions should be publicly advertised and there should be clear selection criteria

and an interview process. However, a minimum number of seats should be kept for people from “equality groups”, including Travellers and Roma.

- Staff in the new Commission will require training on each of the nine grounds of the equality legislation and on human rights, so that they are equipped to deal with such a vast remit covering several areas of expertise. Specific anti-racism training, including racism against Travellers should be delivered. This is particularly important in order to avoid institutional racism.
- The Commission should be accountable to the Oireachtas, and the annual report of the Commission should be debated in the Dáil to give a focus to equality and human rights issues within the formal political domain.

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For additional information, please contact:

Ronnie Fay or Martin Collins, Directors, Pavee Point Travellers Centre, Tel: 01 8780255