

**Migrant Rights Centre Ireland's submission on Ireland's combined draft 5th 6th  
and 7th State report to the UN Committee on the Elimination of Racial  
Discrimination  
January 2018**



### **1. Introduction**

The Migrant Rights Centre Ireland (MRCI) is a national organisation working to promote the rights of migrant workers and their families living in situations of vulnerability throughout Ireland. The MRCI works collectively with migrant workers to become involved in decision-making processes that affect their lives. We seek to influence policy, build public awareness on migration issues, undertake research and document the experiences of migrant workers. The MRCI supports locally based initiatives and networks at a local, national, European and global level. In 2017 MRCI provided information and support to 2,155 people from 127 different countries.

### **2. Persons with an immigrant background.**

According to Population and Migration estimates released in April 2017 there were 566,600 ( or 11.8% of the population) non-Irish nationals residing in Ireland and among those 139,600 where from outside the EU. Census 2016 has shown that 810,406 persons or 17.3% of the population were born abroad. MRCI works with migrants in low-paid and precarious work at risk of poverty, discrimination and social exclusion for over 12 years. We work predominantly, but not exclusively, with non-EU migrants and their families to ensure their access to rights and entitlements. The non-EU migrants in Ireland represent 24.6% of the overall migrant population. The vulnerabilities and precariousness associated with immigration status merits special consideration when developing strategies to ensure equality outcomes for migrants.

### **3. Scope of the Submission**

We welcome the opportunity to make a submissions on Ireland's combined draft 5th 6th and 7th State report to the UN Committee on the Elimination of Racial Discrimination. In the interest of conciseness, we will limit our comments to those concluding observations which are directly relevant to the work of the MRCI. This does not represent an endorsement of the State's response to other concluding observations and recommendations.

#### 4. Issues and Recommendations

- *Concluding Observations in Paragraph #15*

These concluding observations relate to the passage of comprehensive immigration legislation in the form of an improved Immigration and Residence Protection Bill 2010 which included the right to judicial review administrative decisions and provide rights for migrant women leaving abusive relationships to secure independent residence permits

We would like to note that the State's response to the Committee has failed to address the points raised, in particular it gives no indication as to the Government's intention to pass comprehensive immigration legislation and a timeline to do so. We believe that successful integration, including freedom from structural and incidental racism, can only be achieved through comprehensive legislation which addresses rights, entitlements and obligations.

Failure to enact immigration legislation results in serious problems for non-EU migrants, of which the Committee highlighted two. We believe it is important that the Government introduces comprehensive immigration legislation, and not sectioned pieces of law, which will address all aspects of entry, residence, protection and removal. Such legislation will allow for an independent appeals tribunal which will deal with immigration-related decision making and act as an effective appeals mechanism, thus limiting the need for judicial review.

Similarly, it is important that independent legal status is afforded to all dependents, thus limiting the impact of abusive relationships in the residence entitlements of dependents as is the case nowadays. While INIS has introduced measures to deal with relationship breakdowns as a consequence of abusive relationships these still do not respond to the needs of victims. Spouses need to be granted a Stamp 4 and not a stamp 3, in order to have access to services and employment, key elements to facilitate their exit from abusive relationships.

- *Concluding Observations in Paragraph #18*

These concluding observations relate to the passage of legislation prohibiting racial profiling by An Garda Síochána and appropriate training for members of the police force.

We do not accept the State's response that An Garda Síochána does not engage in racial profiling. It has been our experience that individuals are frequently singled out because of their ethnicity for the purpose of police checks, including immigration control. These incidents have been well documented by iReport, produced by the European Network Against Racism Ireland, and many complaints have been made to the Garda Síochána Ombudsman Commission in this regard.

A number of reports have signaled that ethnic profiling is common on buses and trains between the Republic of Ireland and Northern Ireland, at Dublin Airport and other border posts. It is of concern that AGS does not have a specific mechanism to address incidents of racial profiling in these circumstances. Similarly, with the civilianization of border posts in Dublin Airport it is unclear what complaints mechanisms are in place for those who feel that they were unjustly singled out.

We believe that AGS should put in place training sessions on the topic of racial profiling in conjunction with civil society as well as ready and public accessible mechanism to treat complaints in this matter.

- *Concluding Observations in Paragraph #25*

These concluding observations relate to legislation which will deal with the principles, rights and obligations governing family reunification. It is also advised that an independent authority is established to deal with such applications, including through the introduction of an appeals procedure.

In the same vein as Paragraph #15 we do not believe that the State's response addresses the concerns of the Committee. In this matter we believe that the principles, rights and obligations related to family reunification are best dealt in the context of comprehensive immigration legislation. It is important that the State outlines its timeline for the introduction of such legislation. In the meantime, it is important that applications for family reunification incorporate an independent appeals mechanism. While the introduction of guidelines has been welcomed as a temporary measure, we believe that legislation is required as a matter of urgency. Such legislation should strike a balance between financial thresholds and the right to family life, currently that balance is not met as attested by the number of application refusals without recourse for a review procedure.

- *Concluding Observation in Paragraph #28*

These recommendations relate to the ratification of the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Yet again we believe that the State's response fails to address the concerns of the Committee, in particular it fails to indicate a timeline for the ratification of the said Convention or any reservation which the State may have in this regard.

Furthermore, it is incorrect that the non-EEA nationals are offered the same employment protections as guaranteed by the Conventions. First, it is important to highlight that the scope of the Convention is not limited to employment issues but addresses other fundamental rights which are present in the International Bill of Rights and other international conventions which Ireland is part of. Secondly, one of the key features of the convention is the protection, including in employment law, of migrants irrespective of their legal status. Currently, it is unclear whether undocumented migrants can access compensation for breaches of employment law through the Labour Court and the State has failed to clarify this; and while the Employment Permits (Amendment) Act 2014 has introduced a provision for irregular migrants to seek compensation through the civil courts, it is only limited to breaches under the National Minimum Wage Act and only when it has been demonstrated that the applicant has taken all steps available to them in order to regain legal status. These restrictions do not represent an effective complaints mechanism for victims of labour exploitation, which as a matter of employment law should be addressed in employment courts and fall short of the protections guaranteed by the UN Convention.

Finally, while the ratification of ILO C189 is welcomed, failure to protect the rights of undocumented workers, including through access to effective complaints mechanisms and labour inspections separated from immigration control means that Ireland is not meeting its commitments to the International Labour Organisation.