

***Equality Coalition***

***Response to the Green Paper on anti-  
discrimination and equal treatment***

**31 AUGUST 2004**

## **I. Personal Information**

The Equality Coalition is an alliance of groups and organisations concerned with equality issues. Evolving out of a recognised need to monitor and safeguard Irish anti-discrimination law against efforts to undermine its provisions, the Coalition also campaigns for the improvement of existing measures. The Equality Coalition comprises non-governmental organisations (NGOs) spanning the various constituencies whose rights are protected the by Employment Equality Act (EEA) 1998<sup>1</sup> and the Equal Status Act (ESA), 2000<sup>2</sup>. Sharing a common goal of creating a more equal society, Equality Coalition members see legislation as the key means of achieving this vision.

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<sup>1</sup> The Employment Equality Act (EEA) 1998 prohibits discrimination in relation to employment on the basis of: gender, family status, marital status, age, disability, sexual orientation, religious belief, race and membership of the Traveller community.

<sup>2</sup> The Equal Status Act (ESA) 2000 outlaws discrimination on the same grounds with regard to goods, services and education.

The Equality Coalition mirrors and complements the work of the Equality Coalition in Northern Ireland<sup>3</sup>, which comments in particular on the enforcement of the statutory duty to promote equality under Section 75 of the Northern Ireland Act, 1998. The Equality Coalition recalls that Chapter Six of the Good Friday (Belfast) Agreement 1998, requires the Irish Government to “ensure at least equivalent protection of human rights as will prevail in Northern Ireland” and that this obligation extends to all equal protection against discrimination.

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<sup>3</sup> The Committee for the Administration of Justice (CAJ) acts as the secretariat for the Northern Ireland Equality Coalition. [www.caj.org.uk](http://www.caj.org.uk)

## **The Equality Coalition includes:**

### ***Amnesty International (Irish Section)***

Amnesty International undertakes research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of its work to promote all human rights.

[www.amnesty.ie](http://www.amnesty.ie)

### ***Centre for Independent Living (CIL)***

The Centre for Independent Living is an Irish grassroots organisation seeking the right to independent living for individuals with significant physical and/or sensory disabilities. Each centre, which offers core training, advocacy and the personal assistance service, operates on an independent basis from one another, with a co-ordinating centre in Carmichael House, Dublin 7.

[www.dublincil.org/](http://www.dublincil.org/)

### ***Disability Legal Resource (DLR)***

DLR was inspired by and set up to meet a need identified by disabled people, precisely to increase an awareness of rights and to offer a new and unique mechanism of access, information and support for those who wish to pursue their rights through legal means. DLR provides a free and confidential source of information, legal advice and rights training to equip people to become their own rights advocate.

### ***Dominican Justice Office***

The Dominican Justice Office is a joint initiative by Dominican Sisters and Friars, which promotes justice, and equality through education, research and involvement in projects and social justice issues such as anti-racism, social exclusion and homelessness.

### ***Focus Ireland***

Focus Ireland believes that everyone has the right to a place called home and aims to advance the rights of people out-of-home to live in a place they call home through quality services, research and advocacy.

[www.focusireland.ie](http://www.focusireland.ie)

### ***Free Legal Advice Centres (FLAC)***

FLAC is a non-governmental organisation which campaigns for full and equal access to justice for all and which promotes and operates a range of services to meet the legal needs of those living in poverty.

[www.flac.ie](http://www.flac.ie)

### ***Irish Council for Chinese Social Services/Irish Chinese Information Centre***

A Chinese run organisation which campaigns for the rights of Chinese immigrants and students living in Ireland.

[www.icic.ie](http://www.icic.ie)



### ***Irish Council for Civil Liberties (ICCL)***

Established in 1976, the ICCL is an independent NGO that works to promote and defend human rights and civil liberties. The ICCL also acts as the secretariat to the Equality Coalition.

[www.iccl.ie](http://www.iccl.ie)

### ***Immigrant Council of Ireland (ICI)***

The ICI is a national independent NGO that seeks to address the emerging needs of immigrants in Ireland, by addressing the Government on matters of policy and through the provision of information and free legal advice to immigrants. The ICI is part of Social Innovations Ireland, which has charitable status.

[www.immigrantcouncil.ie](http://www.immigrantcouncil.ie)

### ***Integrating Ireland***

Integrating Ireland is an independent network of community and voluntary groups working in mutual solidarity to promote and realise the human rights, equality and full integration in Irish society of asylum seekers, refugees and immigrants. Established in 2000, the membership-based network currently comprises of over 160 organisations from all over Ireland, North and South.

[www.integratingireland.ie](http://www.integratingireland.ie)

### ***Irish Refugee Council***

The IRC is an independent NGO set up to ensure that all aspects of Ireland's asylum and refugee policy and practice (legal, social, economic and cultural) fully respect international law and the human rights of asylum-seekers and refugees; promote public awareness and understanding of asylum and refugee issues; serve the networking, information exchange and advocacy needs of the asylum-seeking/refugee community, the (IRC) membership and other organisations with similar aims.

[www.irishrefugeecouncil.ie](http://www.irishrefugeecouncil.ie)

### ***One Family***

Progressing the work of Cherish and established in 1972, One Family provides voice, support and action for one-parent families through membership, professional services and campaigning. Our aim is to affect positive change and achieve equality and social inclusion for all one-parent families in Ireland.

[www.onefamily.ie](http://www.onefamily.ie)

### ***National Traveller Women's Forum***

The National Traveller Women's Forum is the national network of Traveller women and Traveller women's groups. It works collectively to challenge the racism and sexism experienced by Traveller women and promotes Traveller women's right to self-determination, the attainment of human rights and equality within society.

### ***National Women's Council of Ireland***

Established in 1973, the National Women's Council of Ireland, which is the umbrella organisation for women's groups in Ireland with a membership of 167 organisations, provides an independent critical voice on issues relating to women's equality. The NWCI lobbies government and political parties on education, health, social welfare and representation issues, as well as working with its affiliates to increase capacity to effect emancipatory change for women.

[www.nwci.ie](http://www.nwci.ie)

### ***Northside Community Law Centre (NCLC)***

The Northside Community Law Centre is an independent Law Centre which provides a free legal service to residents in the catchments area of Dublin North Central and Dublin North East. The Law Centre provides information, advice and in certain cases representation in the areas of Family Law, Social Welfare, Employment, Equality, Housing, Debt and Consumer Law.

### ***Pavee Point***

Pavee Point is a NGO which is committed to human rights for Travellers. The group comprises Travellers and members of the majority population working together in partnership to address the needs of Travellers as a minority group which experiences exclusion and marginalisation.

[www.paveepoint.ie](http://www.paveepoint.ie)

### ***Treoir***

Treoir is the national federation of services for unmarried parents and their children.

[www.treoir.ie](http://www.treoir.ie)

### ***Westmeath EQUAL***

Westmeath EQUAL is a locally based project funded under the European Social Fund EQUAL Community Initiative 2000-2006 which seeks to address issues of inequality, discrimination and exclusion in the labour market.

[www.westmeath.equal.com](http://www.westmeath.equal.com)

## II. Meeting the Challenge of Enlargement

a. How important do you think that it will be for the EU to reinforce its efforts to combat discrimination on grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation following enlargement?

### Answer

Levels of discrimination on the grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation remain high in the European Union. The Equality Coalition believes it is very important that the EU reinforce its efforts to combat discrimination following enlargement. However, the EU must allocate enough resources to implement and support anti-discrimination measures.

## III. Implementing non-discrimination in law and in practice EU legislation

a. What impact do you think that European legislation has had on the level of protection in the EU against discrimination on grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation?

### Answer

EU anti-discrimination legislation has had an extremely important impact in Ireland, in particular within the field of gender discrimination. Paving the way for a detailed legislative framework, European Council Directives on gender equality<sup>4</sup> led to several

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- <sup>4</sup> For example, Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women [1975] OJ L45/198; Council Directive 75/117/EEC of 10 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions [1976] OJ L39/40. What about others like: Equal treatment for men and women in social security, 79/7/EEC
  - Occupational Pensions Directives, 86/378/EEC, 96/97/EEC
  - The right to maternity leave and pay, 1992
  - Guarantee of adequate health and safety at work for pregnant women, 1992
  - Pregnancy cannot be used as a reason for dismissal of a female employee, 1992 92/85/EC)
  - A minimum 14 week period of maternity leave, 1992
  - Parental and Adoptive Leave, 1996.
  - Burden of Proof in cases of Discrimination based on Sex (1998) Directive 97/80/EC in O.J. L14/6.

important developments such as an end to the marriage bar in the Irish civil service<sup>5</sup>, the establishment of the Employment Equality Agency, by virtue of the Employment Equality Act, 1977. Its main functions were to work towards the elimination of discrimination and promote equality between men and women. In the same year the Unfair Dismissals Act, 1977 was enacted to deal with unfair dismissals in the workplace. Although both pieces of legislation were very significant, the Irish Government still tried to avoid its EU obligations on gender equality in social security.<sup>6</sup> However, the European Court of Justice has been effective in enforcing the Irish Government to respect its obligations.

Throughout the 1990s an extensive campaign conducted by experienced and widely known groups representing discriminated groups, lobbied the Government for extensive equality legislation.<sup>7</sup> The previous rainbow coalition government<sup>8</sup> was in general supportive and open to new anti-discrimination legislation, and the Good Friday (Belfast) Agreement, 1998 provided an impetus for the promotion of equality measures north and south.

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<sup>5</sup> Previously women who were employed as civil servants in the public sector were forced to leave their position upon marriage.

<sup>6</sup> From the results of Case 286/85 *Cotter and McDermott v Minister for Social Welfare and Attorney General* (No 1) [1987] ECR 1453; Case C-377/89 *Cotter and McDermott v Minister for Social Welfare and Attorney General* (No 2) [1991] ECR I-ase C-208/90 *Emmet v Minister for Social Welfare and Attorney General* [1991] ECR I-4296. Cited in Barry, E. (2003) "Different Hierarchies – Enforcing Equality Law" in *Equality in Diversity The New Equality Directives*, Irish Centre for European Law, Trinity College Dublin/ Equality Authority.

<sup>7</sup> It is worth mentioning here that a Disability Bill is currently being drafted and the disability sector in Ireland has been the major driving force behind it.

<sup>8</sup> Comprised of Fine Gael, the Labour Party and Democratic Left, the 'Rainbow Coalition' was in government from 1994 to 1997.

Adopting a unified approach, the Employment Equality Act (EEA) 1998 prohibits discrimination in relation to employment on the basis of: gender, family status, marital status, age, disability, sexual orientation, religious belief, race and membership of the Traveller community. The Equal Status Act (ESA) 2000 outlaws discrimination on the same grounds with regard to goods, services and education. While the range of grounds covered by Ireland's existing equality law compares favourably with other EU countries, in virtually all other respects we lag behind our European counterparts. However, a particular weakness within the Acts is that they rely on an individualistic justice model. In general this means that the Acts can only be triggered if an individual has been discriminated against and is willing to take a case against the employer or service provider.

Taking the above into account, it is clear that EU measures in the field of equality and anti-discrimination initiated a new phase in anti-discrimination framework in the Republic of Ireland. While the Equality Coalition recognises and values this, we disagree with the EU's focus on the "worker citizen" and employment based legislation. We also have concerns that in some cases EU regulations/directives can actually promote discrimination<sup>9</sup> or lack clarity. In relation to the latter, definitions in the Directives are either vague (race/ethnic origin) or non-existent (there is no definition of disability).

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<sup>9</sup> Provisions have been agreed by EU Member States to deny asylum seekers support and leave them destitute during the reception phase, unable to access social assistance, health care and employment. See for example, ECRE (June 2004) *Broken Promises – Forgotten Principles: An ECRE Evaluation of the Development of EU Minimum Standards of Refugee Protection Tampere – Brussels 2004*, [www.ecre.org](http://www.ecre.org)



**b.** What do you consider to be the main remaining obstacles to the effective implementation of European anti-discrimination legislation?

**Answer**

The Equality Coalition considers our national implementing legislation to be incomplete. For example, the main purpose of the Equality Act 2004 is to fully transpose the ‘Race’ EU Council Directives on equal treatment on race<sup>10</sup>, employment<sup>11</sup> and gender<sup>12</sup>. The Equality Coalition broadly welcomed the introduction of the Act, however, we were critical of its failure to fully transpose all three Directives (see below for summary of the Equality Coalition’s observations):

- Amending section 2 of the Employment Equality Act 1998, section 3 of the Equality Act 2004 provides for an exemption allowing employers to discriminate against individuals when recruiting employees for the delivery of personal services in the home.

- Section 48 of the Equality Act 2004 amends section 3 of the Equal Status Act in order to reflect the definition of indirect discrimination in Directive (2000/43/EC). The Directive definition takes account of the potential for disadvantage and differs slightly. It reads: “where an apparently neutral provision, criterion or practice would put persons of...”. Section 48 of the Equality Bill does not take account of the potential for disadvantage, rather the disadvantage or discrimination must have already occurred.
- Paragraph 1 of Article 3 of the Race Directive provides that the Directive shall apply to all persons as regards both public and private sectors including public bodies in relation to: (e) social protection, including security and health care; (f) social advantages; (g) education; (h) access to and supply of goods and services which are available to the public including housing. However, the Irish Government failed to amend the Equal Status Act 2000 to include functions of the state in the definition of “service”.
- Article 14 of the Race Directive included an obligation on Member States to take necessary measures to ensure that “any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished”. This is not reflected in the Equality Act 2004.

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<sup>10</sup> The Race Directive (2000/43/EC).

<sup>11</sup> The Framework Employment Directive (2000/78/EC).

<sup>12</sup> The Gender Equal Treatment Directive (2002/73/EC).

- All three Directives require Member States to ensure that associations, organisations and legal entities with a legitimate interest in ensuring compliance with the provisions of the Directives, may engage in any judicial remedies and/or administrative procedure provided for either on behalf of or in support of the claimant. Again, the Irish Government has failed to respect this obligation.
- The Directives basically codify jurisprudence from the European Court of Justice (ECJ) on sanctions and remedies. Binding in Irish law, the ECJ has ruled that awards should be effective in order to have a deterrent effect and be adequate in relation to the damage sustained. Again, the Equality Act fails to raise sanctions and remedies in Irish law to comply with ECJ jurisprudence.
- Finally, the Equality Act 2004 violates the principle of non-regression located in all three Directives. Continuing a new trend, the Irish Government used the Equality Act 2004 to row back a decision from Ireland's enforcement body, the Equality Tribunal.<sup>13</sup> Section 50 amends section 7 of the Equal Status Act in relation to educational establishments. The new section allows the Minister for Education and Science to discriminate on the basis of race (nationality) when providing further and higher education grants. In practice this section will prevent migrant workers, persons with complementary protection and long-term resident migrants from securing further/higher education grants.

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<sup>13</sup> *Two complainants –v- the Department of Education and Science* (DEC2003- 042/043). Refer to Equality Tribunal website at – [www.odei.ie](http://www.odei.ie)

The Equality Coalition believes that major difficulties still exist for victims in accessing law courts or tribunals because of failure to obtain adequate legal representation or due to lack of knowledge. The Legal Aid Board<sup>14</sup> does not provide any support to individuals wishing to take anti-discrimination cases. While the Equality Authority<sup>15</sup> does have two full-time lawyers and one part-time to support cases, it is the view of the Equality Coalition that this is not anywhere sufficient to cater for the needs of the entire country. Hence, for the most part, persons wishing to progress claims often need to pay a private solicitor for advice or representation.<sup>16</sup> Individuals from marginalized socio-economic communities are thereby deterred from, inhibited, and in some cases effectively denied access to the legal system to enforce their rights.

Despite the existence of the extensive equality legislation, the Equality Coalition is concerned there is a continued existence of discriminatory attitudes or behaviour. For example, the Equality Authority noted recently that the growth of case files, particularly on race grounds, is a cause for concern and that the figures are not actually indicative of the level of complaints of discrimination.<sup>17</sup>

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<sup>14</sup> Since 1995 the Legal Aid Board has provided a means tested civil legal aid service to the general public. [www.legalaidboard.ie](http://www.legalaidboard.ie)

<sup>15</sup> [www.equality.ie](http://www.equality.ie)

<sup>16</sup> In the Dublin area, there are three non-governmental organisations with solicitors with practicing certificates who try to assist people taking anti-discrimination cases. They include: the Ballymun Law Centre, the Free Legal Advice Centre and the Northside Community Law Centre.

<sup>17</sup> Equality Authority (2002) *Equality Authority Annual Report*, Equality Authority: Dublin.

## Problems not covered by the European legislation

c. Do you consider that there are serious problems, which are not currently covered by the European anti-discrimination legislation?

### Answer

The main problem with EU anti-discrimination is that it is not pre-emptive and is based on an individualised model of justice. As a result governments never conceive of discrimination as a systemic problem and they fail to make efforts to address the causes of discrimination. The EU should consider the development of legislation leading to a statutory duty for public bodies to equality proof their policies and practices. The Equality Coalition would direct the European Commission to the Northern Ireland model.

Section 75 of the Northern Ireland Act 1998 imposes equality duties on public authorities and implementation is overseen by the Equality Commission of Northern Ireland (a statutory body). Compliance with these duties is secured through publication of 'equality schemes', which demonstrate to the Commission's satisfaction how the public authority will promote equality of opportunity between certain different individuals and groups.

Given the continued and pervasive existence of disability discrimination, the Equality Coalition believes a specific disability directive is required. We envision a disability directive addressing: (1) the inadequacy of building regulations; (2) the sexual abuse of adults with intellectual disabilities; (3) special protections for trainees with intellectual disabilities in education and work programmes. Further a disability directive should contain the right to live independently giving persons with disability autonomy and choice.

The EU also needs to consider the situation of third country nationals residing and working within the Union.<sup>18</sup> Many experience systemic discrimination in all areas of life, and in the case of Ireland have almost no access to benefits, housing and free education. Viewed as economic units, third country nationals have been wholly neglected by the EU anti-discrimination legislation.

The Equality Coalition also recommends that former prisoners and trade union membership<sup>19</sup> should be recognised as specific categories of persons needing protection under EU anti-discrimination law. Neither is protected in Irish anti-discrimination legislation<sup>20</sup> and this has very serious implications for affected individuals.

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<sup>18</sup> In relation to the ECJ, the increasing problem is the exemption to and protection of rights of 'non-citizens' and migrants and others whose status is unclear in relation to the legislation of European nation states.

<sup>19</sup> 'Political opinion' as defined in the EU Charter on Fundamental Rights does not include trade union membership.

<sup>20</sup> Although the Unfair Dismissals Acts 1977-2001 does offer some protection to trade union members, the Equality Coalition believes that protection of trade unions membership should be strengthened.

Finally, in the case of the Republic of Ireland, the current government is actually hostile to equality objectives and has tried to roll back our equality regime.<sup>21</sup> The Minister for Justice, Equality and Law Reform recently declared in three widely read newspaper interviews<sup>22</sup> that inequality was good and inevitable for society and the economy. He also believed government attempts to address inequality through equality proofing methods would create “a type of feudal society.” The Minister also recently brandished social justice commentators’ critiques as “self-serving and utterly shallow” because they failed to take account of issues such as investment, growth, innovation, risk-taking and incentive, which he believes lie at the heart of a successful economy.<sup>23</sup> Hence, the market led

political ideology of governments is a major problem the EU must confront in today’s Europe.

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<sup>21</sup> The Irish Government relied on the Intoxicating Liquor Act, 2002 to include a new exemption in the Equal Status Act 2000. Section 15(1) enables hoteliers to discriminate against individuals in relation to accessing their services where they decided that “the customer would produce a substantial risk of criminal or disorderly conduct or behaviour or damage to property. In reality this section is primarily used to deny Travellers and people with disabilities access to hotels. The Government also included Section 19 of the Social Welfare (Miscellaneous) Act 2004 in direct response to a case settled by the Minister for Family and Social Affairs with a same-sex couple. Section 19 ensures that same-sex couples cannot benefit from statutory and non-statutory welfare schemes. Finally, section 50 of the Equality Act 2004 was inserted into this piece of legislation in direct response to a decision from the Equality Tribunal regarding access to higher/further education grants for third country nationals.

<sup>22</sup> Minister McDowell interviewed by Hermann Kelly, Thursday 27 May, Irish Catholic newspaper; ‘McDowell in fresh attack on ‘excessive equality laws’, Sunday, 30 May, Sunday Independent; ‘McDowell: Ireland is not racist’, June 2004, Metro Eireann.

<sup>23</sup> Refer to a speech delivered by the Minister to the Irish Business and Employers Federation (IBEC) annual dinner, 22 June 2004, available at [www.justice.ie](http://www.justice.ie)

**d.** Should the EU stimulate debate on the additional grounds of discrimination listed in the Charter of Fundamental Rights of the EU? (Please select a maximum of 3)

**Answer**

Firstly, the Equality Coalition recommends that the EU should stimulate debate on social origin. Irish equality/anti-discrimination legislation currently does not recognise social origin (meaning someone's birth and past) or socio-economic background as a specific protected category of individuals even though it causes poverty. The inclusion of social origin in the Charter of Fundamental Rights of the EU was a milestone for our equality framework. A changing concept, social condition is an inherited status and linked to social origin and we believe that further debate is necessary and vital on its meaning and how it relates to discrimination.

Secondly, further debate on language is required given the increase in third country national residing and working in Europe and, the EU's failure to protect indigenous minority languages. Historically Ireland did not experience any significant migration inflows but in 2002 it received close to 47,000 non-EU labour migrants alone.<sup>24</sup> Despite this significant increase in labour migrants and their families, the Irish Government has done almost nothing to value and support new community languages. Translation services for the most part are not available and recent research indicates that the Irish Government's education policies are assimilationist and directly discriminate, as well as indirectly, against third country nationals and

their families.<sup>25</sup> However, Ireland's education policies do not only discriminate against third country nationals, national minority groups are also adversely affected. Irish Sign Language (ISL) is the first language of the Deaf community and used in everyday life with their families.<sup>26</sup> However, the Irish Government has rejected all efforts to have it recognised formally. As a result ISL is not included in the Irish education curriculum and official government documentation is rarely distributed in ISL.

Thirdly, the Equality Coalition sees the importance in advancing the debate on political opinion. This ground has become increasingly significant in recent years, particularly in the Republic of Ireland. Freedom to criticise and scrutinise government activities is essential in a liberal social democracy. However, the Equality Coalition is concerned that this right is not being respected by the Irish Government, or indeed elsewhere. The Social Partnership Initiative<sup>27</sup> is a good example where the Government has tried to quash dissent and political opinion. For example, representing 169 women's organisations, the National Women's Council of Ireland (NWCi)<sup>28</sup> were excluded from the partnership process because it refused to support the Initiative's last agreement on the ground that it failed to address inequality experienced by marginalized groups. The NWCi

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<sup>24</sup> Immigrant Council of Ireland (2003) *Labour Migration to Ireland: A Study and Recommendations on Employment Permits, Working Conditions, Family Reunification and the Integration of Migrant Workers in Ireland*, [www.immigrantcouncil.ie/labour/pdf](http://www.immigrantcouncil.ie/labour/pdf).

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<sup>25</sup> See for example, Ward, T. (2002) *Asylum Seekers in Adult Education: A Study of Language and Literacy Needs*, CDVEC/County Dublin VEC available on [www.cdvec.ie](http://www.cdvec.ie); Ward, T. (2004) *The Education Needs of Separated Children*, CDVEC/County Dublin VEC/Dun Laoghaire VEC (forthcoming).

<sup>26</sup> ISL is a visual, spatial language with its own distinct grammar. Refer to Irish Deaf Society, *Irish Sign Language Information Leaflet* [www.irishdeafsociety.ie/home/images/ISL.pdf](http://www.irishdeafsociety.ie/home/images/ISL.pdf)

<sup>27</sup> Social partnership involves the partnership of the Government, employers, trade unions and the Community and Voluntary Pillar to agree national economic and social policy priorities and measures.

<sup>28</sup> [www.nwci.ie](http://www.nwci.ie)

was then further excluded from participation on the National Economic and Social Council (NESC), because it was no longer a member of social partnership.<sup>29</sup> As a result the NESC's policies do not have a gender perspective. Further, the Government cut off funding for the '*Citizen Traveller Information Campaign*' because it openly criticised the State for enacting new legislation impinging on the rights of Travellers.

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<sup>29</sup> [www.nesc.ie](http://www.nesc.ie)

#### IV. Improving data collection, monitoring and analysis

**a.** How important do you think the collection of data is to the development of the effective policies to promote equality and tackle discrimination?

##### **Answer**

For the Equality Coalition, improving data collection, monitoring and analysis is very important to assess the impact/effectiveness of equality and anti-discrimination measures. Previously the Government only disaggregated statistics in accordance with gender and made no efforts to compile data on the other protected grounds.<sup>30</sup> In fact our last national census did not compile information on ethnicity. The National Central Statistics Office has recently tried to remedy the situation by including a new questionnaire module within the National Quarterly Household Survey on equality and anti-discrimination.<sup>31</sup> A question on ethnicity is also currently being piloted in preparation for the next census. However, the Equality Coalition is still critical of other areas of government and the public sector failing to address this matter.<sup>32</sup>

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<sup>30</sup> In the public sector, assessing the number of people with disabilities is the only exception.

<sup>31</sup> This new module will be piloted in Autumn 2004. Refer to [www.cso.ie](http://www.cso.ie)

<sup>32</sup> Refer to National Statistics Board (2003) *Developing Irish Social and Equality Statistics to Meet Policy Needs*, CSO: Cork. The challenges for the Irish public service posed by this report are considerable. Without co-ordinated action across departments, to implement major recommendations, policy makers in governmental departments will simply not have adequate empirical evidence to develop and monitor social policies in a manner which will stand up to public scrutiny and meet the efficiency and accountability standards that our society increasingly demands.

The Equality Coalition would like to draw the attention of the European Commission to Section 75 of the Northern Ireland Act 1998. Public bodies are required by law to collect data and to monitor the effectiveness of equality/anti-discrimination measures.

**b.** Do you agree that the EU should cooperate with national authorities and other stakeholders in order to explore possible ways of collecting data related to the discrimination and integration of disadvantaged groups?

**Answer**

The Equality Coalition strongly agrees with this statement. Involving a wide range of public bodies/service providers, United Kingdom has extensive experience in data collection, monitoring and analysis. The European Commission needs to examine the UK model before devising or supporting similar actions throughout Europe. Of course data collection/monitoring provides an essential basis for equality proofing.<sup>33</sup>

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<sup>33</sup> It was noted in the draft NGO Alliance Shadow Report that there are no significant references or policy initiatives in relation to the intersection of gender and racism nor any specific analysis as to how that double oppression and discrimination effects minority ethnic women in the Ireland First National Report on Convention on the Elimination of All Forms of Racial Discrimination.

## V. Making full use of EU funding

a. Which of the following should be a priority for EU funding?

### Answer

Firstly, the Equality Coalition recommends that the EU should prioritise training on diversity and discrimination. The Equality Coalition recognises that this is an area, which the Irish Government does not fund adequately and the quality/efficacy of training varies widely. EU funded training on diversity and discrimination should be standardised and address underlying prejudices. Training should be developed through closer work with non-governmental organisations on the ground in order to have a discernable impact.

Additional funding should be made available to allow organisations/bodies who undergo training to undertake equality impact assessments and develop Equal Opportunities Policies. Presently in Northern Ireland, public bodies are expected to draw up equality impact assessments<sup>34</sup> and this goes some way in preventing discrimination from actually happening.

The Equality Coalition believes that the EU should also prioritise funding for vocational training and work experience. Because of systemic discrimination (education, health care, housing) many discriminated groups are underemployed.<sup>35</sup> The Coalition notes that the EU seems to be moving away from smaller budget initiatives that address grassroots issues. For example, the HORIZON and NOW projects had a positive impact upon young workers trying to enter the labour force. Supporting the reintroduction of similar programmes, the Equality Coalition recommends that childcare should be included to ensure young women can participate.

Members of discriminated groups, in particular ethnic minorities and people with disabilities, are unable to secure employment because they have no work experience, and an EU funded initiative may address this difficulty. Further, the Equality Coalition acknowledges that equality policies only in part combat prejudice and discrimination. Attitudinal change is more likely to occur if members of discriminated groups are actually part of a work team of workplace.

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<sup>34</sup> Refer to [www.ecni.org.uk](http://www.ecni.org.uk)

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<sup>35</sup> National statistical information from 2002 indicates that 73% of Traveller men are unemployed compared to a national average of 9%. These statistics also revealed that 73% of Traveller women were unemployed in comparison to a national female rate of 8%. [www.cso.ie](http://www.cso.ie) Moreover, some discriminated groups such as refugees experience difficulties securing employment because of discriminatory attitudes and policies. The Irish Medical Council has done nothing to recognise the medical qualifications of refugees and as a result they are often forced to qualify in the United Kingdom.



**b.** On which of the following areas should future activities concentrate?

**Answer**

The Equality Coalition believes that future activities should focus on public procurement because increasingly public services are delivered by private entities, and Ireland's equality legislation does not cover private actors in public procurement processes. The Equality Coalition is also aware that the World Trade Organisation (WTO) is promoting economic efficiency and profitability<sup>36</sup> in this area which may be incompatible with the EU's social objectives.

Given that most poverty related discrimination occurs outside the workplace, the EU needs to focus on discrimination outside the employment field, which includes education, social security, healthcare, access to goods, services and housing.

Finally, the Equality Coalition recommends that the EU should also do more to make a business case for diversity. The European Commission needs to explore new ways to include discriminated groups in the labour force, and these explorations should pay particular attention to the self-employment as a means of addressing economic and social discrimination.

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<sup>36</sup> Refer to the World Trade Organisation Public Procurement Gateway [http://www.wto.org/english/tratop\\_e/gproc\\_e/gproc\\_e.htm](http://www.wto.org/english/tratop_e/gproc_e/gproc_e.htm)

## VI. Reinforcing cooperation with stakeholders

a. Do you believe that any of the following actors should be involved to a greater extent in the EU's efforts to tackle discrimination?

### Answer

Recognising there is currently a democratic deficit at an EU level for community groups and the limits of EU networks, the Equality Coalition recommends that there should be greater participation of NGOs representing discriminated groups. We also see the benefit in reinforcing and enabling regional and local authorities to have more of an input in the EU's efforts to tackle discrimination.

However, the Equality Coalition would like to register the Coalition's concern with this question. Due to the vague wording, the question does not allude to the repercussions leading from greater involvement of the various bodies mentioned. We are concerned that greater involvement of some bodies/groups might lead to a reduction in certain protections for discriminated groups.

## VII. Ensuring complementarity with other areas of EU policy

a. Which of the following instruments do you feel could be used in a more effective way to support the EU's efforts to tackle discrimination? (Please select a maximum of 3).

### Answer

The Equality Coalition feels the following instruments could be used more effectively to support the EU's efforts to tackle discrimination, which includes: (1) European Employment Strategy, (2) European Social Inclusion Strategy and Programme and (3) the Corporate Social Responsibility Programme.

**b.** Do you agree that efforts to tackle sex discrimination in the EU should be linked more closely to the efforts to tackle discrimination on grounds of racial or ethnic origin, religion or belief, age disability and sexual orientation?

**Answer**

Recognising that this is a perennial problem and given the multiple identities of women, the Equality Coalition strongly agrees with this statement. There would not be so much conflict if gender was perceived as a crosscutting ground.

**c.** Do you agree that it remains necessary to tackle specifically sex discrimination and the promotion of gender mainstreaming?

**Answer**

Given that gender discrimination affects both men and women adversely, the Equality Coalition believes that more resources need to be allocated to gender proofing. There is much to be learned from the Swedish model where men and women are more likely to be treated equally i.e. rather than reinforcing specific gender roles, the Swedish family model treats mothers and fathers equally and provides a fluid model by allowing both to take paternity leave to care for new infants. By way of contrast, the Irish family model impedes women's citizenship and men's role in the family. The Irish paternity leave model only gives fathers 2-3 days paid time off around the time of a birth and mothers three months. Centring on the rights of children and promoting gender equality, the EU needs to adopt and promote a model which reconciles family life with home/work.

The EU also needs to address the political participation of women in government and in decision-making. Despite 30 years of gender related anti-discrimination legislation a "jobs for the boys" syndrome dominates Irish politics. Consistently under-represented in politics, most women who are politically active come from political families. After the 2002 national parliamentary elections, only 13% of Dáil Deputies were women and this was only an increase of 1% since 1997. If nothing were done about this, it would take another 370 years for the Dáil to have equal participation of female and male parliamentarians. According to the National Women's Council of Ireland (NWC), women are more likely to be found in service-

orientated services and local resident organisations.<sup>37</sup> In order to promote access to political structures, the Equality Coalition strongly recommends that new rules be instituted to elicit more participation from women in politics. The EU could promote ideas such as quotas for political parties and decision-making bodies.

The Equality Coalition is concerned that because of the inclusion of new grounds, developmental actions targeting gender discrimination may be undermined or given less attention. Gender discrimination is still the main form of discrimination in existence. Apart from enforcement bodies, other organisations in the public sector need to have more of a focus on gender issues. Enforcement bodies and equality support agencies also need extra assistance continuing tackling gender discrimination.

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<sup>37</sup> National Women's Council of Ireland (NWCi) (2002) *Irish Politics: Jobs for the Boys!* NWCi: Dublin.