

Statement by Alan Shatter TD, Minister for Justice, Equality & Defence

Nasc Conference - Racism and Hate Crime in Ireland

Is the Legislative and Policy Framework Adequate?

4 October, 2013

First of all, I would like to express my sincere thanks to Nasc for the kind invitation to address you here today in the form of this statement. Regrettably, I am not able to attend the conference in person but I am delighted to have this chance to contribute to this important debate in another way.

At the outset, I wish to state in very clear and unequivocal terms that racism, hate crime, discrimination and intolerance have no part to play in modern Irish society and that they will not be tolerated.

The impact of racism, hate crime, discrimination and intolerance which some may regard as being relatively trivial in nature may have deep and long-lasting effects upon the victims. This is something we cannot, and will not, stand for.

It is a basic and fundamental human right to live free from the fear of persecution and the threat of being subject to anti-social or racist action by others. It is the duty of us all, regardless of the role we have in society, not only to work to uphold and value the dignity and rights of all citizens, but to strive our utmost to ensure that we have in place the measures necessary to protect and further deepen those freedoms.

The responsibility for combating racism, hate crime, discrimination and other forms of intolerance lies with all sectors of society not just Government. It is of especially critical importance that people in public life, including those in positions of public leadership, should provide active leadership against statements or actions of intolerance against other persons and create a favourable climate of mutual respect and inclusion of persons regardless of gender, race, religion or belief, ethnic origin, disability, age or sexual orientation. The business community has a part to play, as does the media in general. Employers and trade unions too have very important functions in this regard. Non-governmental organisations also have an important and

positive role to play. We must also not discount the important role played, in the case of the workplace, by all employees and not just those directly affected, by schools and by the general public.

I very much welcome today's conference and the important role it has in highlighting the issues of racism, hate crime, discrimination and intolerance. Nasc has brought together a very distinguished panel of speakers to contribute to the national dialogue around how to improve the response of Irish society to these issues.

I believe that the role Nasc plays, along with that of other non-Governmental organisations, is vital in ensuring important issues such as those of racism and hate crime within Irish society remain in the spotlight and I thank them for that. A process of dialogue reflecting the key issues facing us as a nation is critical in ensuring that we can identify problems and take the appropriate action to minimise and eliminate their effects. This conference is part of that dialogue.

Ireland attaches great importance to the protection and promotion of human rights at home and abroad. During the recently concluded Irish Presidency of the Council of the European Union, I ensured that the issues of the respect for fundamental rights and for the rule of law were uppermost on the agenda for discussions with European Ministerial colleagues, and I believe that we made significant progress during our discussions.

Last January, for example, European Ministerial colleagues dealing with Justice and Home Affairs issues met in Dublin Castle. Our discussions considered, among other issues, possible European Union action to promote social integration by encouraging effective action and enhancing cooperation between justice systems in countering the problems of hate crime and racism, anti-Semitism, xenophobia and homophobia.

Ministerial colleagues agreed to approach the Commission with a view to having the European Council Framework Decision 2008/913/JHA of November 2008 relating to the problems of combating certain forms and expressions of racism and xenophobia through criminal law means reviewed on a country-by-country basis so as to ensure pan-European effectiveness and consistency of application. This review is underway.

I also brought conclusions to the June 2013 meeting of the Justice and Home Affairs Council, which noted that respecting the rule of law is a pre-requisite for the protection of fundamental rights; and called on the Commission to take forward a debate on the possible need for and shape of a collaborative and systematic method to tackle these issues. I was also particularly happy that the Irish Presidency was able to host a conference last May entitled “*A Europe of Equal Citizens: equality, fundamental rights and rule of law*”. This was an important step in launching that debate.

Domestically, as you are aware, protection is afforded to citizens through the Prohibition of Incitement to Hatred Act 1989 which makes it a criminal offence to use words, publish or distribute written material, or to broadcast any visual images or sounds which are threatening, abusive or insulting and are intended, or, having regard to all the circumstances, are likely to stir up hatred.

In addition to this legislation, where criminal offences such as assault, criminal damage, or public order offences are committed with a racist motive, they are prosecuted as generic offences through the wider criminal law. The trial judge can take aggravating factors, including racial motivation, into account at the sentencing stage.

A person convicted on indictment for the harassment offence under section 10 of the Non-Fatal Offences against the Person Act 1997 is liable to imprisonment for up to 7 years or an unlimited fine, or both. Also, the court may, in addition to or as an alternative to any other penalty, order that a defendant not communicate with or approach a complainant. This latter option is also available to the court where it is not satisfied that a person should be convicted of the offence of harassment but believes nevertheless, having regard to the evidence, that it is in the interests of justice to make a prohibition order.

In this jurisdiction, the legislature enacts criminal laws which usually provide for maximum penalties in the form of a fine or imprisonment, or both. Within our legislative framework, the determination of a penalty in any individual case is largely

a matter for the trial judge, taking case law, including appealed cases, into account. This allows the courts to take all the circumstances of the offence and all the relevant aggravating and mitigating factors into account. The gravity of the offence, the facts surrounding the commission of the offence, the criminal record of the accused and the impact on the victim are among the critical factors taken into account before a sentence is imposed. The judge must take into account the circumstances of the offence and the offender. Also, it is within the remit of the Director of Public Prosecutions to appeal against a sentence if she believes it to be unduly lenient.

I should also like to mention the ongoing and important work of the Garda Racial, Intercultural and Diversity Office. This Office goes to great lengths to ensure that, as cases of hate crime are reported, they are investigated and the required action is taken as appropriate. The network of Garda ethnic liaison officers based throughout the country is paramount in ensuring that those who become the victims of racist or hate crime are given a sympathetic and understanding ear, and more importantly that the relevant authorities are notified of any such incidents.

I want to encourage everyone working in the area to report to the relevant authorities incidents of racism or hate crime or discrimination - if the authorities are aware of incidents, they can investigate and act accordingly. If victims do not report incidents - it permits those who carry out offensive and discriminatory acts to go unchallenged.

The advent of the electronic age with easy mass-communication has provided great benefits to us all. It has however, in some respects at least, made the process of spreading the thoughts and ideologies of intolerance and indifference easier. Again, each of us has a role to play in counteracting this process.

Ireland has a robust framework for protection of vulnerable groups generally, which will be strengthened by the amalgamation of the Equality Authority and Human Rights Commission. The proposed legislation is expected to be published later in 2013. An initial task for the new body will be to draw up and agree with the Oireachtas a strategic plan setting out how it will fulfil its mandate to promote and protect human rights and equality. The Irish Government is committed to protecting the position of the most vulnerable in society. Our equality framework and legislation

explicitly provides for protection and redress against racism and other forms of intolerance.

In conclusion, I would like to take this opportunity of wishing the conference well and of thanking the event organisers for the opportunity of contributing to the deliberations.

I very much look forward to reviewing the outcomes of the conference in due course.
