

annual report 2004

IHRC

IRISH HUMAN RIGHTS COMMISSION
AN COIMISIÚN UM CHEARTA DUINE

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foreword

I have pleasure in submitting the Report of the Irish Human Rights Commission for 2004.

The year under review was one of progress and consolidation for the Commission. The Commission has been active in all of its key areas of work and these activities have been detailed in the Report. In some instances these activities have been more high profile than others – the administration of justice, racism and persons with disabilities for example, while in other areas – economic social and cultural rights, gender and equality work done during the year will take longer to come to fruition. In addition the Commission made significant progress in its casework functions and initiated its first enquiry.

In detailing the work of the Commission it is important to stress that the Commission is still very much in its developmental phase. It is tempting for governments to believe that once a new institution has been established and given its initial funding the job is done. That is far from the case, certainly as far as the Human Rights Commission is concerned. The Commission is understaffed and under-funded in terms of its

capacity to perform all its prescribed statutory functions. The Commission knows it has to compete for scarce public funds and knows that its development will be gradual and incremental and recognises too that the most enduring results are likely to flow from a steady, phased evolution. It is however concerned that there may be a view in government that the Commission, in its current form, is essentially the finished product rather than work in progress. If the Commission is to achieve the ambition set for it by An Taoiseach, Mr Bertie Ahern – and one which the Commission enthusiastically endorses – ‘it was my intention

‘If the Commission is to achieve the ambition set for it by An Taoiseach, Mr Bertie Ahern – and one which the Commission enthusiastically endorses – ‘it was my intention that the Commission would be a model for others to follow, and one that would set rather than follow standards of best international practice in this area’ – then it is important that there be a phased and significant increase in resources over the coming years.’



that the Commission would be a model for others to follow, and one that would set rather than follow standards of best international practice in this area' – then it is important that there be a phased and significant increase in resources over the coming years. The Commission appreciates that the Minister for Justice, Equality and Law Reform shares this view and looks forward to seeing it become a reality.

One of the principal functions of the Commission is to examine legislative proposals to ensure that they are in conformity with Ireland's international and constitutional human rights obligations. This we have done, especially in areas of justice, disability and immigration. We have, I believe, done this effectively, but there are a number of problems which we believe need to be addressed.

1. Within the Government only the Minister for Justice, Equality and Law Reform routinely and comprehensively refers legislative proposals to the Commission. We have asked Government to ensure that other Departments refer legislative proposals which may have human rights implications to us. We have been assured that this will happen, but so far it has not.
2. The late introduction of amendments, often of a substantive nature leaves neither time nor opportunity for referral to the Commission, and while we understand the pressures of the political and parliamentary timetable we feel this practice is undesirable and is in many respects as much a problem for the Oireachtas as it is for the Commission.

3. There is the additional problem of EU sourced legislation. By the time this legislation is referred to the Commission, the principles and much of the detail has already been settled and there is little, if any, scope for change. We recognise this is an EU wide problem and have begun discussions on this matter within the European Executive of national human rights institutions which will be taken up with the European Commission and the European Parliament.

At a positive level the Commission is pleased to note its growing relationship with Oireachtas Committees, especially the Joint Committee on Justice, Equality, Defence and Women's Rights and appreciates the cooperation it has received from the Chairman of that Committee, Mr Sean Ardagh TD. The Commission has presented its views on various legislative proposals and we hope that over the coming years we will increasingly work with Oireachtas Committees in presenting a human rights analysis and framework of legislation under consideration. Indeed it is the long term objective of the Commission that it be accountable directly to the Oireachtas rather than to a Government department as at present and it will be working to achieve this over the coming years.

The Commission is very conscious of, and jealously guards, its independence. But in so saying it also wishes to stress that it sees itself as a resource available to help those seeking to promote and protect human rights. Thus it has in the past and will continue to work enthusiastically with NGOs, other statutory bodies and state

bodies in seeking to provide analysis and leadership on human rights issues. Human rights are by definition universal and it is the ambition of the Commission to be accessible and helpful to the best of our limited resources. In particular we would urge government departments not to see us in hostile or negative terms but to realise the extent to which an informed human rights perspective can not just improve legislation and practice but prevent problems arising at a later and often very costly stage.

The past year saw the Commission seriously increase its engagement at the international level. We were elected to the European Executive of the International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights and have participated actively and positively in its activities. We believe that national human rights institutions are stronger when they are part of an international

fellowship of national bodies, able to benefit from each others experiences, share certain tasks, collaborate and support each other in times of difficulty.

Finally may I thank the Commissioners for their commitment, expertise and enthusiasm over the past year. It is a pleasure for me to say that this Commission is held together by the commitment of all its members to a common human rights agenda and by their respect for the integrity of the different points of view and differing perspectives among its membership. May I thank, too, our Chief Executive and our staff whose dedication to human rights is reflected in the consistently high quality of their work.



Maurice Manning
President

‘The past year saw the Commission seriously increase its engagement at the international level. We were elected to the European Executive of the International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights and have participated actively and positively in its activities.’

introduction

2003 was the year the Commission acquired permanent premises and the staff needed to enable it to exercise its statutory functions. It was also the year when it adopted a four-year Strategic Plan, established a website, and conducted its first review of its effectiveness as required by its founding legislation.

2004 was the year the Commission became truly operational, with a full initial complement of staff in place to implement the policies laid down in general terms by the Commission in its Strategic Plan and concretised in work terms by an Annual Business Plan.

The Minister for Justice, Equality and Law Reform continued to refer legislative proposals to the Commission for its views on their human rights implications. In addition to these referrals, the Commission took the initiative in commenting on a number of other Bills as well as on the constitutional amendment on citizenship.

The Commission also took two major initiatives in relation to the State's compliance with its international commitments to eliminate gender and racial discrimination, one under the UN Convention on the Elimination of All Forms of Discrimination Against Women and the other under the International Convention on the Elimination of All Forms of Racial Discrimination. In both instances, it listened to what other bodies active in the field had to say and selected a number of topics for research. The results of this research were submitted to the respective international treaty-monitoring bodies under the Conventions, for their consideration.



Furthermore, during the year, the Commission addressed the significant backlog of communications it had received from individuals and streamlined its procedures in order to bring this area of its work within manageable proportions. Towards the end of the year, it took the decision to conduct its first statutory enquiry – into a social welfare pension scheme.

On the educational and promotional front, it held a number of conferences and seminars on human rights themes, many in co-operation with other bodies, such as the National Consultative Committee on Racism and Interculturalism, the Irish Section of Amnesty International and the Law Society of Ireland. It moreover participated in a cross-border primary schools human rights education project, known as “Lift Off”, and agreed to co-sponsor a human rights education conference, in 2005, targeted at policy-makers at primary school level in the Republic of Ireland and in Northern Ireland.

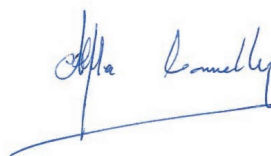
The Commission engaged internationally, principally at the European and United Nations levels, with other human rights bodies. In

November 2004, at a meeting of European national human rights institutions, its international status was affirmed by its election as one of four European representatives to the International Co-ordinating Committee of national human rights institutions, linked to the Office of the UN High Commissioner for Human Rights.

It is Commission policy to avoid any unnecessary duplication of work and to exercise its statutory powers in a manner which will bring 'added value' to work already being undertaken in the State to protect and promote human rights. To this end, towards the end of the year, it concluded a formal Memorandum of Understanding with the Equality Authority.

In short, 2004 was the year the Commission started to make its mark both domestically and internationally. It however became progressively

apparent over the year that, although the Commission's basic operational structures are sound, the Commission will need additional staff and premises to exercise in any meaningful way the full range of its various statutory functions. By the end of 2004, the energy, commitment and productivity of Commissioners and staff had been proven. What will be tested in 2005 is not the ability of the Commission to deliver, but rather the political will of the Government to follow through on the human rights impetus generated by the Good Friday Agreement and to ensure that the Commission has available to it the resources required to maintain high quality work and to develop to its full potential.



Alpha Connelly
Chief Executive

'By the end of 2004, the energy, commitment and productivity of Commissioners and staff had been proven. What will be tested in 2005 is not the ability of the Commission to deliver, but rather the political will of the Government to follow through on the human rights impetus generated by the Good Friday Agreement.'

one : the commission

The Human Rights Commission is a statutory body deriving its composition, functions and powers from the Human Rights Commission Acts 2000 and 2001.

MEMBERSHIP

The Acts provide that there shall be a President and 14 other members of the Commission. They also provide that not less than 7 members of the Commission shall be women and not less than 7 members shall be men. The President of the Commission is Dr. Maurice Manning. The other members of the Commission in 2004 were:

- Professor William Binchy
- Ms. Olive Braiden

- Mr. Martin Collins
- Professor Robert Daly
- Ms. Suzanne Egan
- Mr. Michael Farrell
- Ms. Maureen Harding Clark
(from 11th May 2004)
- Ms. Nuala Kelly
- Ms. Jane Liddy (until 1st March 2004)
- Ms. Clodach McGrory
- Professor Fionnuala Ní Aoláin
- Mr. Tom O'Higgins
- Professor Gerard Quinn
- Mr. Mervyn Taylor
- Dr. Katherine Zappone

Short biographies of all the members of the Commission are given at Appendix I.

MEMBERS OF THE COMMISSION



Dr. Maurice Manning
President of the
Commission



Professor William Binchy



Ms. Olive Braiden



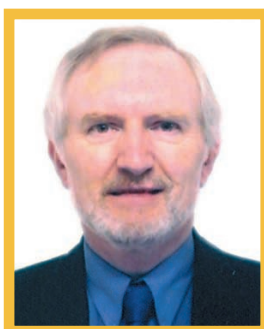
Mr. Martin Collins



Professor Robert Daly



Ms. Suzanne Egan



Mr. Michael Farrell



Ms. Maureen Harding Clark
(appointed May 2004)



Ms. Nuala Kelly



Ms. Jane Liddy (resigned
March 2004)



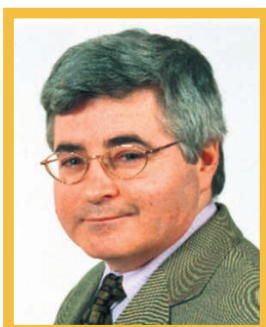
Ms. Clodagh McGrory



Professor Fionnuala Ní
Aoláin



Mr. Tom O'Higgins



Professor Gerard Quinn



Mr. Mervyn Taylor



Dr. Catherine Zappone

FUNCTIONS

The functions of the Commission, as set out in section 8 of the Human Rights Commission Act 2000, are as follows:

- to keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights;
- if requested by a Minister of the Government, to examine any legislative proposal and report its views on any implications of such proposal for human rights;
- to consult with such national or international bodies or agencies having knowledge or expertise in the field of human rights as it sees fit;
- either of its own volition or on being requested to do so by the Government, to make such recommendations to the Government as it deems appropriate in relation to the measures which the Commission considers should be taken to strengthen, protect and uphold human rights in the State;
- to promote understanding and awareness of the importance of human rights in the State and, for these purposes, to undertake, sponsor or commission, or provide financial or other assistance for, research and educational activities;
- to conduct enquiries;
- to prepare and publish, in such manner as it thinks fit, reports on any research undertaken, sponsored, commissioned or assisted by it or in relation to enquiries;
- to apply to the High Court or the Supreme Court for liberty to appear before the High Court or the Supreme Court, as the case may be, as *amicus curiae* in proceedings before that court that involve or are concerned with the human rights of any person and to appear as such an *amicus curiae* on foot of such liberty being granted;
- to take whatever action is necessary to establish and participate in the joint committee of representatives of the Commission and of the Northern Ireland Human Rights Commission;
- to provide assistance to persons in connection with legal proceedings involving law or practice relating to the protection of human rights;
- to institute legal proceedings to vindicate the human rights of a person or a class of persons.

PLENARY AND COMMITTEES

The Commission met in plenary 10 times in 2004, i.e. once a month apart from the months of August and November. Commissioners also met from time to time according to their membership of particular Committees of the Commission.

At the start of the year the Commission had 8 Committees. These were:

- Committee on the Administration of Justice
- Casework Committee
- Committee on Economic, Social and Cultural Rights

- Finance Committee
- Committee on Gender and Women's Rights
- Racism Committee
- Research Committee
- Review Committee

The Commission established 4 further Committees during the course of the year: the Disability Committee, the Remuneration Committee, an *ad hoc* Committee on an *amicus curiae* request and an *ad hoc* Committee on an "Away Day". It discontinued one Committee, the Review Committee. It also extended the terms of reference of two existing Committees and renamed them accordingly: the Committee on Gender and Women's Rights became the Committee on Gender and Equality and the Finance Committee became the Finance and Audit Committee.

The membership, number of meetings and terms of reference of each of the Committees are given at Appendix 2.

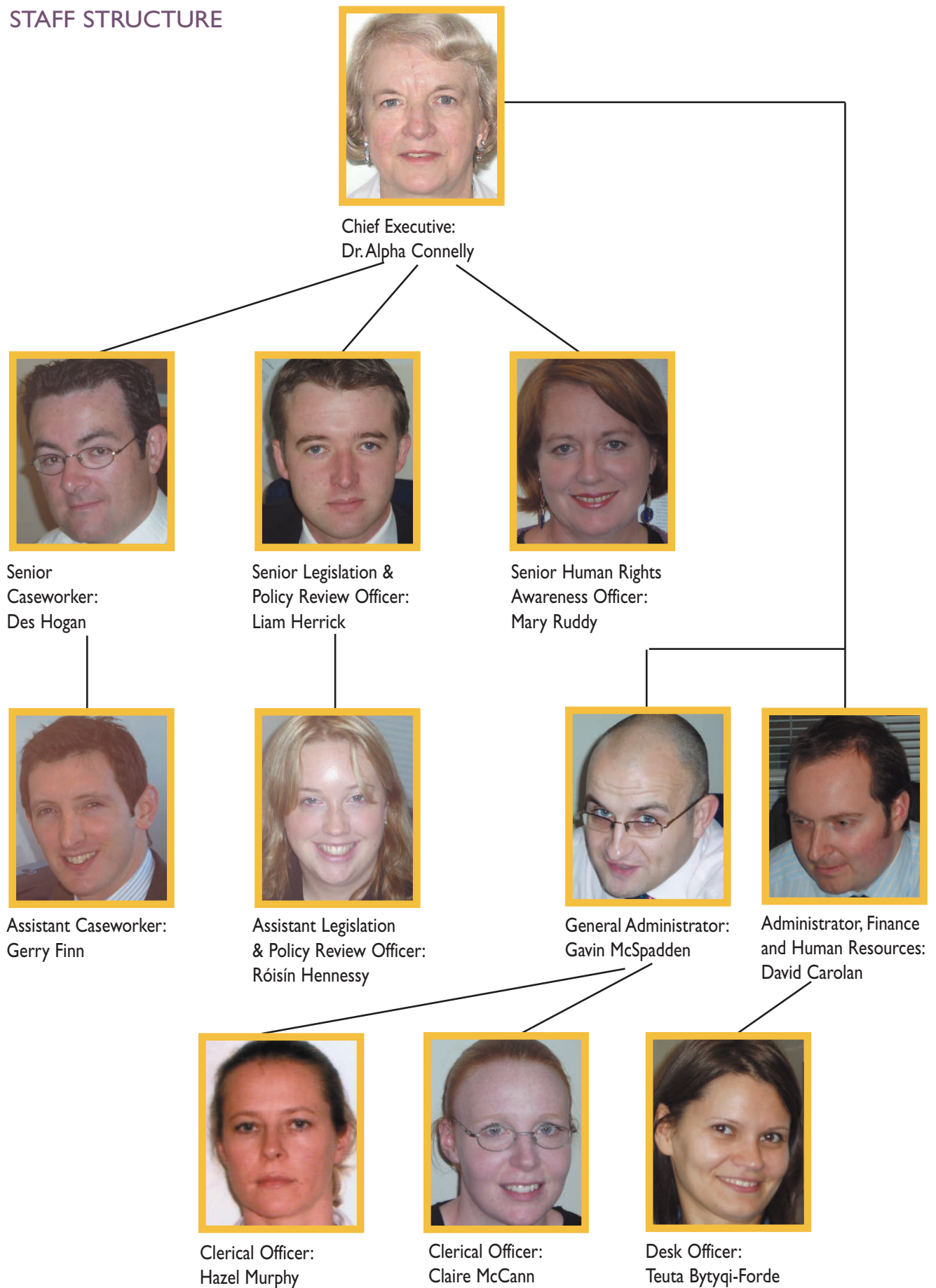
STAFF

The Commission has 11 members of staff, including the Chief Executive.

Early in the year, the Commission acquired one new member of staff: David Carolan as Administrator (Finance and Human Resources); and, in the autumn, it lost one of its Clerical Officers, Hazel Murphy, who left to take up a human rights position elsewhere.

A diagram of the staffing structure is given on the next page.

STAFF STRUCTURE



two : referred legislative proposals

Any Minister of the Government may request the Commission to examine a legislative proposal and to report its views on any implications of the proposal for human rights.¹

During the course of 2004, the Minister for Justice, Equality and Law Reform referred five legislative proposals to the Commission for its views. These proposals were:

- the Transfer of Execution of Sentences Bill 2003;
- a draft of the Irish Nationality and Citizenship (Amendment) Bill 2004;
- additional draft Heads of a Criminal Justice Bill;
- a General Scheme of the Criminal Justice (International Co-operation) Bill; and
- the Disability Bill 2004.

In addition, early in the year, the Commission submitted to the Minister for Justice, Equality and Law Reform its views on two legislative proposals which had been referred by him to the Commission in 2003. These were a General Scheme of a Criminal Justice Bill and the Commissions of Investigation Bill 2003.

The Commission submitted its views on a General Scheme of a Criminal Justice Bill 2003 to the Minister on 15th January 2004. The Commission reported on its views in respect of this legislative proposal in its Annual Report 2003.

The Commission submitted its views on the Commissions of Investigation Bill 2003 to the Minister on 11th February 2004. The objective of the Bill was to create a system of investigation for matters of public concern which would generally be held in private and which would not attract financial costs and the need for legal representation associated with Tribunals of Inquiry but would provide a more timely and accessible remedy for parties working to get to the truth of the subject matter of the investigation.

The Commission supported the objective of the Bill, believing that the establishment of a more accessible and effective inquisitorial procedure in certain appropriate types of case could make a significant contribution to the protection of the human rights of the victims of certain human rights violations. However, it stressed the need to balance any such consideration with the protection of due process rights, an issue of particular complexity in the Irish context. In its observations, the Commission recognised that the human rights context of any proposed enquiry would depend greatly on the subject matter of the particular investigation and set out the constitutional and international human rights norms which may be of assistance to the Oireachtas and to the Government in ensuring that each individual commission of inquiry is structured and established in compliance with the State's human rights obligations.

¹ The Commission may also examine legislative proposals of its own initiative and those proposals in respect of which it has done so are covered in Chapter 3.

The Commission submitted its views on the implications for human rights of the Transfer of Execution of Sentences Bill 2003 to the Minister on 3rd June 2004. The purpose of the Bill was to give effect to the provisions of Article 2 of the Additional Protocol to the 1983 Council of Europe Convention on the Transfer of Sentenced Persons. These provisions set out the rules which apply to the transfer of the execution of the sentence of a person convicted of a criminal offence in one state who has absconded from the sentencing state to his or her state of nationality or origin. The Commission identified two main categories of human rights issues arising in relation to the Bill: first, the obligations on the State to protect and guarantee the human rights of persons who might be transferred to the other state; and, secondly, the obligations on the State to ensure the human rights of an Irish citizen where another country makes a request for the execution of a sentence within Ireland which has been imposed elsewhere. The Commission recommended that the Bill include a number of additional safeguards consistent with the human rights protection contained in Irish constitutional jurisprudence and in international human rights law.

The Commission submitted its views on the draft of the Irish Nationality and Citizenship (Amendment) Bill 2004 to the Minister on 27th August 2004. The draft Bill was linked to the passing by the people in a referendum of an amendment to the Constitution which qualified the constitutional entitlement to citizenship by birth on the island of Ireland and gave greater discretion to the Oireachtas in legislating for Irish citizenship. The Commission made a number of

recommendations in relation to the proposed legislation and expressed the view that any proposal to restrict rights to citizenship must be seen in the wider context of serious shortcomings in existing immigration and asylum policy. It was further of the view that many of its human rights concerns might be greatly alleviated if the Oireachtas and Government were to adopt a more structured and generous approach to granting rights of residence, as distinct from citizenship, for humanitarian or employment purposes, accompanied by adequate legal protection of rights.

The Minister's request to the Commission for its views on additional heads of a Criminal Justice Bill was overtaken by the publication of the Criminal Justice Bill on 7th July 2004; and the Commission therefore made a number of further recommendations to the Minister in relation to the Bill, having already commented on a General Scheme of the Bill at the beginning of the year. The additional recommendations related to search warrants and powers of seizure, periods of detention, the taking of bodily samples, photographs and fingerprints, prosecution appeals, the admissibility of certain witness statements and fixed charge offences. The recommendations were communicated to the Minister on 3rd November 2004.

The submission to the Minister of its views on a General Scheme of the Criminal Justice (International Co-operation) Bill was deferred until 2005.

The Commission submitted its views on the Disability Bill 2004 to the Minister on 15th

November 2004. The main focus of the Commission in examining the Bill was to assess whether it met the State's obligations under international human rights law, as set out in the treaties to which the State is a party. The Commission identified the main requirements of international human rights law in this regard as being:

- The provision of services must be effectively centred on an individualised assessment of needs which is in compliance with international human rights standards, both in the parameters of assessment and in relation to its independence.
- Mechanisms for the allocation of funding and the provision of services must effectively guarantee the progressive realisation of the economic and social rights of persons with disability. A forward moving dynamic that progressively ratchets upwards the level of provision is required. The human rights of persons with disabilities must be the paramount consideration in the rationalisation of resources and services.

- Mechanisms for the allocation of funding and the provision of services must guarantee that basic standards of services never fall below a floor that is determined by the core minimum contents of social and economic rights and consistent with the imperative of human dignity.
- The Bill must provide effective remedies in terms of the enforcement of orders for the provision of services, and appeals and review of findings. Any procedures put in place in this regard must be fair and independent.
- The State's obligations in the area of promoting and protecting equality and preventing discrimination extend to ensuring that the proposed systems provide equal participation in society for all persons with disabilities.

In light of these requirements, the Commission recommended a number of improvements in the Bill.

The full text of the Commission's views on referred legislative proposals may be found on the Commission's website www.ihrc.ie.

three : key areas of work

In its Strategic Plan for 2003-2006, *Promoting and Protecting Human Rights in Irish Society*, the Commission identified a number of key areas of work for it over this period. These are:

- the administration of justice
- economic, social and cultural rights
- racism
- persons with disabilities
- gender
- equality and human difference

ADMINISTRATION OF JUSTICE

In November 2003, the Commission submitted to the Minister for Justice, Equality and Law Reform its views on a General Scheme of the Garda Síochána Bill which had been referred to it by the Minister. The Bill, when published in 2004, reflected many of the recommendations of the Commission; and in February 2004, the Commission issued further observations in which it analysed in detail the extent to which each of its earlier recommendations had been addressed in the Bill and made a number of recommendations as to how the human rights aspects of the Bill might be strengthened or clarified.

During the course of the year, the Commission considered several legislative proposals relating to the administration of justice which had been referred to it by the Minister for Justice, Equality and Law Reform. These were the Commissions of Investigation Bill 2003, the Transfer of the Execution of Sentences Bill 2003, the Criminal Justice Bill 2004 and a

General Scheme of the Criminal Justice (International Co-operation) Bill. Details of these referrals are given in Chapter 2.

Also, during the year, there was communication, on a confidential basis, between the Department of Justice, Equality and Law Reform and the Commission regarding applicable human rights standards in the drafting by the Department of new Prison Rules, and the Commission made a number of recommendations to the Department in this regard.

In addition, in response to a request from the Law Society of Ireland, the Commission considered the human rights implications of the Personal Injuries Assessment Board Act 2003, and communicated its observations to the Society in April 2004.

The Commission furthermore considered the Third Report of the European Committee for the Prevention of Torture on its Visit to Ireland in February 2002. The Committee visits Ireland from time to time to examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment. It can visit, for example, prisons, juvenile detention centres, police stations and psychiatric hospitals. The Committee had previously visited Ireland in 1993 and 1998; and on each occasion, it had produced a report on its visit, in which it highlighted issues of concern in relation to the treatment of persons deprived of their liberty and made recommendations for reform of the law, policy and practice in the area.



Barbara Nolan, EU Commission with Mr. Imran Khan, UK solicitor and Dr. Maurice Manning at the conference 'Combating racism and promoting equality through legislation' held on 27th March 2004.

In its observations on the Third Report of the European Committee, the Commission examined in detail the problems identified by the Committee, assessed the official response of the Government to the Report and the recommendations of the Committee, and drew attention to the critical areas of law and policy where the human rights of detained persons are not being adequately protected. The areas are policing, prisons, detention of non-nationals, mental health institutions, establishments for persons with intellectual disabilities and detention of children.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

During the course of the year, the Commission developed and agreed the content and scope of a major research project to be undertaken by it on

economic, social and cultural rights. It also considered and approved the holding by it of a major international conference in late 2005 which would link into this research.

It was decided that the research would essentially focus on four matters. These are:

- the nature of economic, social and cultural rights;
- the status of economic, social and cultural rights under international law;
- a survey of enforcement, which would present an overview of the various forms of redress and enforcement; and
- the current status of economic, social and cultural rights in Ireland.

It was also decided that special attention would be given in the research to the right to housing.

The findings of the research would be launched at the international conference, the purpose of which would be to explore key concerns surrounding the nature, implementation and enforcement of economic, social and cultural rights and to stimulate debate in relation to these rights.

It is hoped that the research and the conference will help towards a greater understanding of economic, social and cultural rights in Ireland and heighten awareness of their importance.

RACISM

Throughout the year, the Commission collaborated with a number of other public

bodies and non-governmental organisations working to combat racism in Ireland.

On 27th March 2004, together with the Irish Section of Amnesty International and in association with the National Consultative Committee on Racism and Interculturalism ("NCCRI"), it held a one-day conference in Dublin on "Combating Racism and Promoting Equality through Legislation". The conference examined the legal frameworks in place in the Irish, European and international contexts to promote equality on the basis of race and to combat racism. It aimed to provide a forum for legal practitioners and grassroots activists to highlight best practice and policy as well as to exchange information. It was attended by about 100 persons and a copy of the conference programme is reproduced at Appendix 3.



The National Consultative Committee on Racism and Interculturalism (NCCRI) and the Irish Human Rights Commission (IHRC) launched their joint publication entitled *Safeguarding the Rights of Migrant Workers and their Families: A Review of EU and International Human Rights Standards: Implications for Policy in Ireland* on 5th April 2004. Speaking at the launch were: Dr. Alpha Connelly, Chief Executive, IHRC; Philip Watt, Director NCCRI; Anastasia Crickley, Chairperson NCCRI and Dr. Maurice Manning, President IHRC.

During the early part of the year, it also undertook joint research with the NCCRI on EU policy and international human rights standards relating to migrant workers and their families. The results of this research were published, with a foreword by Mary Robinson, on 5th April 2004 as *Safeguarding the Rights of Migrant Workers and their Families. A Review of EU and International Standards: Implications for Policy in Ireland*.

Immigration is one of the most important challenges currently facing Ireland and other Member States of the European Union, and it is hoped that this publication will provide a valuable guide for both policy-makers and organisations which are concerned with the protection of the rights of migrant workers and their families.

In its review, the Commission and the NCCRI emphasise the need for Ireland to manage labour migration in a way that both fully respects the human rights of migrant workers and their families and takes into account current and future economic and employment initiatives, and make a number of general and specific recommendations to this end. In particular, the two organisations recommend that the development of immigration policy in Ireland and the EU must be underpinned by a human rights approach and that the Government should sign and ratify the International Convention on the Rights of All Migrant Workers and Members of their Families.

On 22nd November 2004, the Commission also co-hosted with the NCCRI, a seminar on the

International Convention on the Elimination of All Forms of Racial Discrimination (“CERD”). The main purpose of the seminar was to inform and guide relevant non-governmental organisations and other bodies on how to engage effectively with the international monitoring process under CERD. The seminar was addressed by Natalie Prouvez, Secretary to the CERD Committee, and by Martin O’Brien, formerly of the Northern Ireland Committee on the Administration of Justice, who had previous experience of engaging in the process. The seminar was attended by about 50 persons; and a copy of the seminar programme is reproduced at Appendix 4.

Much of the Commission’s work on racism in 2004 comprised research on, and the production of, a submission (or “Shadow Report”) to the UN Committee on the Elimination of Racial Discrimination (“CERD Committee”) in respect of Ireland’s First National Report under CERD. The Commission prioritised a number of matters for examination and, in its submission, highlighted some of the issues which, in its view, need to be addressed urgently and seriously if there is to be a truly equal and intercultural society in Ireland. In doing so, it was conscious that many other organisations, including both public bodies and interested non-governmental organisations, would also be making submissions to the CERD Committee and wished not to duplicate the efforts of others but to liaise, as appropriate, with other organisations and to ‘add value’ to the international process whereby Ireland’s performance in combating racial discrimination is examined. The matters specifically addressed by the Commission were:

- the legal status of CERD in Irish law;
- the scale of the problem of racism in Ireland;
- awareness of racism in the context of Ireland's commitments under CERD to adopt effective educational programmes to combat racial discrimination and to promote friendship between racial groups;
- Ireland's reservation in relation to freedom of expression and association;
- racist speech and freedom of expression;
- migrant workers;
- Travellers;
- asylum-seekers and refugees; and
- gender and racial discrimination.

The Commission formally transmitted its submission to the CERD Committee on 17th January 2005.

In the context of CERD, the Commission has had an ongoing discussion with the Minister for Justice, Equality and Law Reform on the question of the recognition of Travellers as an ethnic group. As part of this discussion, on 24th March 2004, it published a Discussion Paper entitled "Travellers as an ethnic minority under the Convention on the Elimination of Racial Discrimination". The Paper looks at the question from a legal perspective in terms of the relevant legislation and case law, and the provisions of



In advance of the examination of Ireland's periodic report under the Convention on the Elimination of Racial Discrimination, the IHRC in conjunction with the NCCRI held an information seminar in November 2004. It was addressed by Natalie Prouvez, Secretary to the CERD Committee; Philip Watt, Director NCCRI; Martin O'Brien, formerly of the Committee on the Administration of Justice, NI; Dr. Alpha Connelly, Chief Executive of the IHRC and Dr. Maurice Manning, President, IHRC



The IHRC held its third public consultation meeting in Cork on 18th November 2004. It was addressed by Commissioner Michael Farrell; Siobhán Mullally, Faculty of Law, UCC; Dr. Maurice Manning, President of the Human Rights Commission; Mariam Olusoji, Joint-Chairperson NASC; Chrissie Sullivan, Travellers Visibility Project; Vitaliy Makhnanov, NASC and Integrating Ireland and Commissioner Nuala Kelly, IHRC.

international human rights agreements. The Commission believes that the Government's refusal to recognise Travellers as an ethnic minority or as a group with distinct ethnic origins for the purposes of CERD suggests a lack of understanding of the importance to Travellers of recognition of their culture and identity. In the Commission's view, it also raises concerns that sufficient weight may not be given in policy-making to the need to respect and promote Traveller culture, and the lack of recognition may place obstacles in the way of Travellers accessing all the protections of CERD and other international human rights conventions as well as have implications for the application to Travellers of the EU Directive of June 2000 on Equal Treatment between Persons Irrespective of Racial or Ethnic Origin (the "Race Directive").

During the course of the year, the Department of Justice, Equality and Law Reform referred the draft National Action Plan Against Racism to the Commission for any further comments the Commission might have on it. The Commission sent its comments to the Department on 5th August 2004.

Also, on 18th November 2004, the Commission held the third in its series of public consultation meetings in Cork. The meeting focused on racism and addressed such issues as whether the rights of those encountering racism are sufficiently protected in Ireland, what strategies are needed to counter racism, and whether there are ways in addition to legal measures, or better ways, of countering racism. About 80 persons attended the meeting; and a copy of the programme of the meeting is reproduced at Appendix 5.

With respect to legislative proposals, the Commission took the initiative in examining the Immigration Bill 2004. On 5th February 2004, it issued preliminary observations on the Bill in which it voiced concern about the process by which the Bill had been introduced in the Oireachtas and expressed the view that the Bill raised serious issues of compliance with Ireland's human rights obligations. It recommended that the Bill be withdrawn to allow for proper consultation with interested bodies, to allow for proper parliamentary scrutiny of the text and to facilitate a detailed consideration of the human rights issues relevant to this area of law. Despite the Commission's substantive concerns, the Bill was passed speedily through the Dáil and Seanad and signed into law by the President on 13th February 2005.

The Commission also decided of its own motion to examine the proposed referendum on citizenship and the 27th Amendment to the Constitution Bill which would prospectively remove the constitutional entitlement to Irish citizenship based on birth on the island of Ireland and leave this matter to be regulated henceforth by legislation. The Commission published preliminary observations on the matter on 27th April 2004 and followed this with considered observations which were published on 25th May 2004. The Commission saw its role in this context not as an advocate for or against the proposed constitutional amendment, but as being to highlight relevant human rights issues, specifically those grounded in the State's international human rights obligations, to seek clarification from the Government on these issues and to make

recommendations as to how they might be addressed where possible.

The Commission furthermore commented on the draft Irish Nationality and Citizenship (Amendment) Bill which was contingent on the passing of the referendum and which was officially referred to it by the Minister for Justice, Equality and Law Reform for its views thereon. Information regarding this legislative referral is given in Chapter 2.

PERSONS WITH DISABILITIES

Negotiations are ongoing at the United Nations on the text of a proposed international convention on the protection and promotion of the rights of persons with disabilities. The Commission has the responsibility within the European regional group of national human rights institutions ("NHRIs") for coordinating the input of the European institutions into the negotiating process and developing a common position, where possible, on the matters being negotiated. In this context, the Commission consulted during the year with other European NHRIs on the draft text of the Convention and drew up observations for consideration and eventual adoption by the European NHRIs. The Commission was also represented at the two meetings in New York of the UN *Ad Hoc* Committee which is tasked with drafting the Convention: 24th May – 4th June and 23rd August – 3rd September 2004; and at two meetings on the Convention, hosted by the Office of the Swedish Disability Ombudsman in Stockholm: 21st – 22nd June and 4th – 5th December 2004.

In April 2004, the Commission received a request from a non-governmental organisation, Disability Legal Resource, to comment on a list of legislation that impacts on the lives of persons with disabilities and to reply to a number of questions on the European Convention on Human Rights Act 2003. The Commission provided the organisation with information in respect of the factual matters raised in it.

In September 2004, the Commission submitted to the National Disability Authority, at its request, comments on the Authority's Draft Guidelines for Improving Accessibility of Public Services for People with Disabilities.

On 23rd November 2004, representatives of the Commission appeared before the Oireachtas Joint Committee on Justice, Defence and Women's Rights in relation to the Disability Bill. The Commission had submitted its observations on the Bill to the Minister for Justice, Equality and Law Reform on 15th November 2004, and the main requirements of international human rights law in this regard are detailed in Chapter 2.

GENDER

Much of the work of the Commission in 2004 in the area of gender was devoted to the production of a submission (or "Shadow Report") to the UN Committee on the Elimination of Discrimination Against Women in respect of Ireland's Combined 4th and 5th Periodic Reports to it under the Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW"). As in the case of its

submission to the CERD Committee, the Commission decided that its Report would address a select number of topics and that, in drawing up its Report and participating in this international treaty-monitoring process, it would listen to what other relevant bodies were saying and liaise with others also directly involved in the process. The topics on which the Commission chose to concentrate are:

- a review of the Irish Constitution from a gender perspective;
- a review of Ireland's methods of monitoring progress on the implementation of its obligations under CEDAW;
- women and poverty;
- women with disabilities;
- migrant women and women of racial and ethnic minorities;
- older women.

The Commission's submission to the CEDAW Committee was made in January 2005; and the CEDAW Committee is scheduled to examine Ireland's Combined 4th and 5th Periodic Reports under CEDAW in July 2005.

The Commission held its second public consultation meeting in Limerick on the evening of 22nd April 2004. The meeting focused on gender and women's rights and, in particular, on the Commission's proposed Shadow Report to the CEDAW Committee. This meeting was attended by about 50 members of the public. A member of the CEDAW Committee, Dr Beate Schöpp-Schilling, was one of the speakers at the meeting. She highlighted features of this

international treaty-monitoring process and identified some problems in relation to Ireland's compliance with its obligations under CEDAW. A copy of the programme of the meeting is reproduced at Appendix 6. The public meeting was preceded by a seminar in the afternoon at the Women's Studies Unit of the Department of Sociology of the University of Limerick.

During the year the Commission also held three consultation meetings with key actors in the field of prostitution. Among the matters raised at the meetings were:

- distinguishing between forced and unforced prostitution;
- prostitution as a barrier to equality for all women?
- problematic aspects of the prosecutorial approach to trafficking in women;
- the interaction between new international instruments, such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons (Protocol to the U.N. Convention on Transnational Organised Crime);
- the nature and definition of prostitution.

Following on these consultation meetings, it was decided to outsource research in 2005 in relation to prostitution in Ireland and relevant human rights standards.

EQUALITY AND HUMAN DIFFERENCE

The Commission took the opportunity to comment on the Equality Bill 2004, the purpose of which was to give effect in Irish law to three

EU Council Directives in the area of equality, namely a Race Directive, a Framework Employment Directive and a Gender Equal Treatment Directive. The Commission sent its observations on the Bill to the Minister for Justice, Equality and Law Reform on 2nd June 2004; and, on 3rd June 2004, it submitted them to the Oireachtas Committee on Justice, Equality, Defence and Women's Rights.

The Commission welcomed the transposition of the three Directives into Irish law by way of legislation, but was of the view that, in a number of respects, the Bill did not go far enough in transposing the Directives. In its opinion, some of the measures included in the Bill may have the effect of undermining existing non-discrimination protections by creating new categories of exemptions and retracting on decisions of the Equality Tribunal. The Commission also had concerns about provisions in the Bill for the differential treatment of non-EU nationals in relation to access to education and to a number of State services and about provisions relating to discrimination on the basis of nationality in the area of immigration and residency.

The Commission is a member of the Joint Equality and Human Rights Forum which comprises a number of statutory equality and human rights bodies in Ireland and the United Kingdom and affords them the opportunity to meet in a formal structure to discuss matters of common interest. The Forum held three meetings in 2004, and the Commission was represented at each of these meetings. The three meetings were:

- meeting of chief executive officers, hosted by the Disability Rights Commission, Manchester, 23rd March 2004;
- meeting of chief executive officers, hosted by the Commission, Dublin, 28th September 2004;
- meeting of chairpersons and chief executive officers, hosted by the Disability Rights Commission, London, 1st December 2004.

The Chief Executive presented a paper at the December meeting of the Forum entitled, “The Irish Human Rights Commission: the International Dimension”, in which she outlined the Commission’s international work as it relates to the prevention of discrimination and the promotion of equality and offered a few observations on the significance of such work for the bodies represented at the meeting.

In addition, a “Celtic Fringe” meeting of the Joint Equality and Human Rights Forum was held in the offices of the Northern Ireland Human Rights Commission (“NIHRC”) in Belfast on 25th June 2004. Represented at the meeting, in addition to

the Commission and the NIHRC, were the Equality Commission for Northern Ireland, the Equality Authority, the Disability Rights Commission of Scotland, the Equal Opportunities Commission Scotland and the Equal Opportunities Commission Wales.

Following on this meeting, the Equal Opportunities Commission Wales (“EOC Wales”) paid a visit to the Commission on 14th September 2004. The visit formed part of an information-gathering exercise by the EOC Wales, during which it also visited the Equality Authority in Dublin and the Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland in Belfast.

During the year, the Commission negotiated a Memorandum of Understanding with the Equality Authority in view of the complementary statutory remits of the two organisations. The Memorandum was agreed by the Commission at its meetings on 28th October and 16th December 2004 and by the Board of the Equality Authority at its meeting on 18th November 2004. The text of the Memorandum is reproduced at Appendix 7.

four : casework

The Commission has four relevant functions which fall into the category of casework.

These functions are:

- To consider requests for an enquiry into a relevant human rights matter or to initiate enquiries at its own volition;
- To consider applications for assistance in connection with legal proceedings involving human rights law or practice;
- To offer its expertise in human rights law to the superior courts in suitable cases involving human rights issues as *amicus curiae*, or friend of the court;
- To institute proceedings to vindicate the human rights of persons in the State.

OVERVIEW

2004 was a transitional year for the Commission's casework functions. This was the first full year the Commission had two staff working on casework matters and the first full

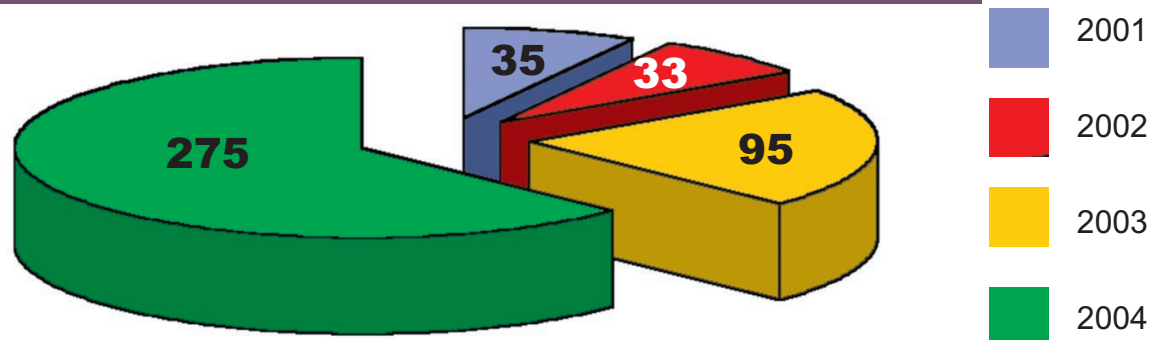
year in which the Commission took decisions on formal casework requests made to it.

In the course of the year, the Commission resolved to take stock of its casework procedures and to consider measures to deal with the backlog of communications it had previously received. In doing so, the Commission reviewed its administration systems, the criteria under which it took decisions on casework requests and the method of that decision-taking.

COMMUNICATIONS RECEIVED BY THE COMMISSION

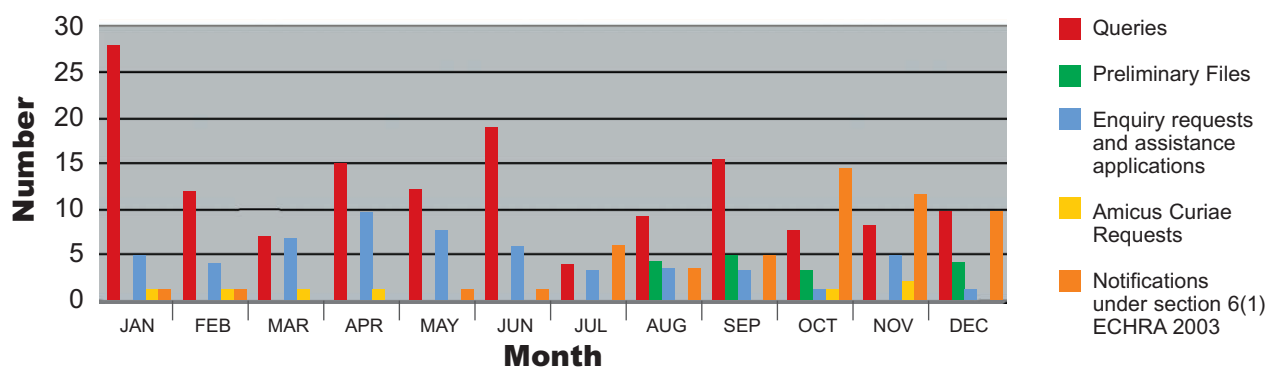
As illustrated in Table I below, the level of casework communications to the Commission in 2004 increased significantly over previous years, i.e. from 95 in 2003 to 275 in 2004.² At the start of the year, the Commission had a backlog of 96 communications from preceding years still to be considered by it.

table one : number of casework communications received by year



² The 35 communications recorded for 2001 includes 7 communications addressed to the Commission in 2000 prior to its formal establishment (in July 2001).

table two : categories of casework communications received by the commission in 2004



Following on from its experience in 2003, the Commission found that a large number of the communications it received in 2004 could be dealt with through telephone advice directing people who approached the Commission to appropriate assistance or complaint mechanisms, such as bodies responsible for public services, the regulation of professional bodies or aspects of the criminal justice system.

For example, persons approaching the Commission seeking legal assistance were advised as to the availability of legal assistance under the criminal and civil legal aid schemes and their attention was drawn to the fact that the Commission may be precluded from granting legal assistance where it can be obtained under those schemes or by any other means.

Similarly, persons approaching the Commission seeking an individual remedy were advised that the Commission cannot provide compensation or redress to people in the course of any enquiry undertaken and that enquiries are for limited purposes only – such as reviewing the relevant

law and practice – and that the Commission may in fact be precluded from conducting an enquiry in the first place where legal proceedings or applications to other bodies should be brought.

Table 2 (above) shows the breakdown of the 275 casework communications received in 2004 by category and by month.

As can be seen from this Table, the Commission identified 5 distinct categories of casework communication and refined its systems of work accordingly during the course of the year.

QUERIES

Of the communications received, the Commission's Assistant Caseworker dealt with 149 mostly telephone queries. Generally speaking, such queries fall into four areas, namely information requests, referrals, advice as to whether a matter comes within the Commission's remit and matters that are likely to become a formal enquiry request or assistance application to the Commission.

PRELIMINARY FILES

Communications received in 2004 also involved written correspondence or submissions to the Commission from individuals. During the year, the Commission received 65 such communications and treated them as preliminary files.³ Of these, 49 subsequently became formal enquiry requests or assistance applications.

FORMAL ENQUIRY REQUESTS AND ASSISTANCE APPLICATIONS

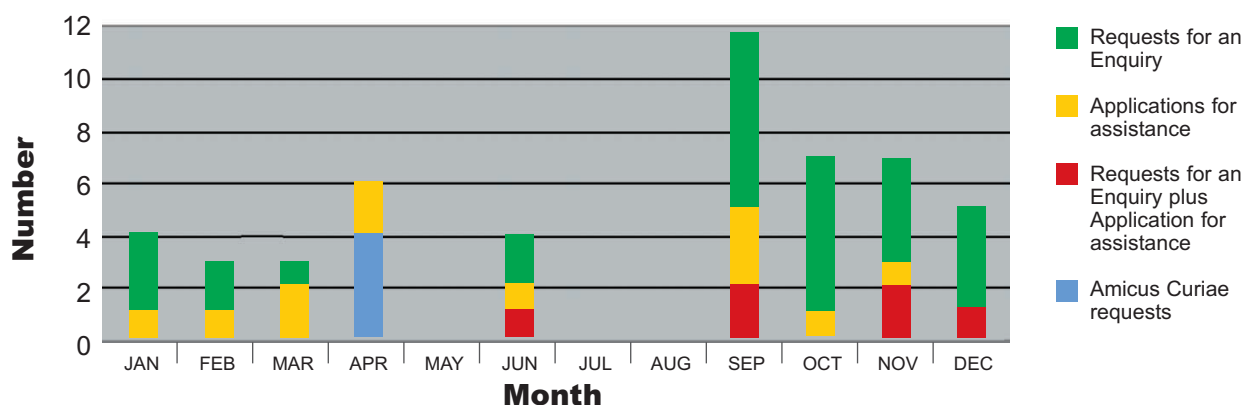
Of the backlog of 96 communications still to be considered by the Commission, some were treated as being preliminary files, some were subsequently resolved, while others were either withdrawn (depending on any developments) or became inactive (after no contact from the person for six months or more). The remainder of these communications were treated as formal enquiry requests and/or assistance applications.

During the course of 2004, the Commission considered and decided 47 formal enquiry requests and/ or assistance applications. Of this total, 29 were requests from persons for an enquiry, 12 were applications from persons for assistance in connection with legal proceedings and 6 were combined enquiry requests and assistance applications. This is illustrated in Table 3. At the end of 2004, there was a backlog of 35 formal enquiry requests and/ or assistance applications.

AMICUS CURIAE REQUESTS

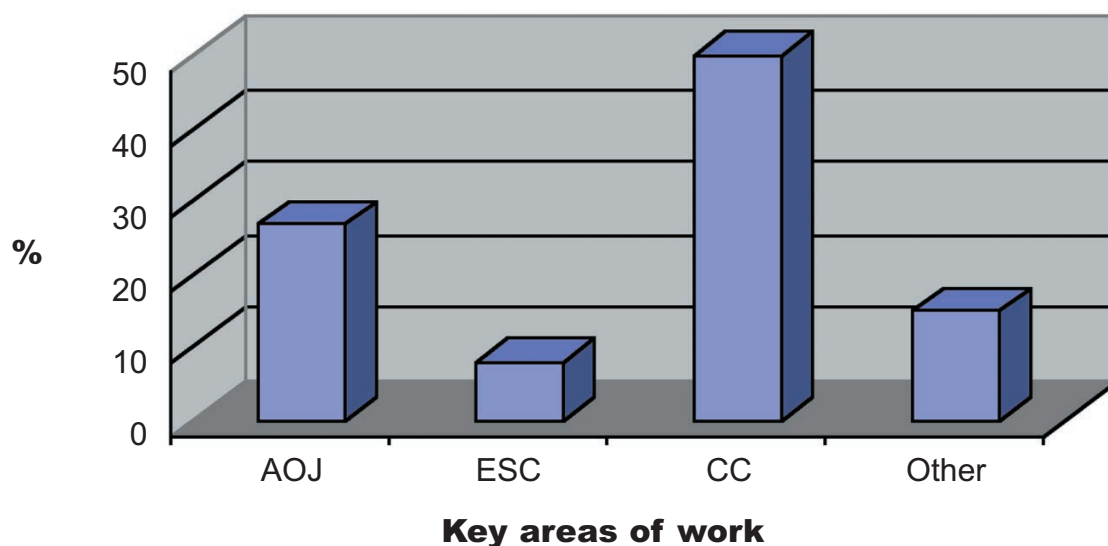
The Commission also received 7 *amicus curiae* requests during the year. After being considered by the Commission's Casework Committee, the Commission sitting in plenary session decided in April 2004 not to accede to the 4 *amicus curiae* requests it had received at that time, having considered these requests in light of its *Amicus Curiae Guidelines* (see below). This is also illustrated in Table 3.

table three : casework decisions taken by the commission in 2004



3 This included one communication concerning whether the Commission should institute proceedings in a case.

table four : how communications received in 2004 relate to the commission's 'key areas of work'



EUROPEAN CONVENTION ON HUMAN RIGHTS ACT

Other communications received in 2004 included 54 formal notifications to the Commission under section 6(1) of the European Convention on Human Rights Act, 2003 (ECHRA) which came into force on 31 December 2003. Section 6(1) ECHRA provides that before a court decides whether to make a declaration that a statutory provision or rule of law is incompatible with the State's obligations under the Convention provisions, both the Attorney General and the Human Rights Commission should be given notice of the proceedings in accordance with rules of court. In practice, the party bringing the case is required to notify the Attorney General and the Commission and this normally involves forwarding a copy of the pleadings to either body and drawing their attention to any relevant matters arising.

ENQUIRY

The Commission decided to conduct its first enquiry into a relevant matter in December 2004. Announced early in 2005, the human rights enquiry was at the request of a retired couple who claim they were obliged to contribute to a social welfare pension scheme from which they could not benefit. The Commission decided that the enquiry was to be conducted in private with the results of the enquiry to be made public.

TYPES OF 'COMMUNICATIONS' RECEIVED

As with previous years, communications received by the Commission have raised issues from across the spectrum of human rights. In terms of the Commission's priority areas of work, as outlined in its *Plan for 2003-2006*, these areas have been:

- civil and political rights (administration of justice)
- economic, social and cultural rights
- cross-cutting issues (including racism, immigration, disability, gender, equality and human difference, children and older people).

As can be seen in Table 4, during the course of 2004, communications relating to primarily ‘cross-cutting’ issues accounted for half of all communications received by the Commission, which may be due to the range of issues covered under that heading.

THE COMMISSION’S PROCEDURES

During the year the Commission adopted a series of guidelines and information pamphlets aimed at explaining what might come within the Commission’s remit and how the Commission took decisions on requests to it. These guidelines and information pamphlets were made available on the Commission’s website or on request during the year.

To assist in explaining its various functions and decision-making processes, in April 2004 the Commission adopted *Amicus Curiae* Guidelines or factors for consideration in deciding whether or not to apply to the superior courts for liberty to appear before them in proceedings concerning human rights. In July, the Commission adopted Guidelines for dealing with enquiry requests and assistance applications which replaced the Commission’s former Criteria for dealing with such requests. The Guidelines document outlines how the Commission takes decisions on requests for

enquiries or applications for assistance. At the same time the Commission produced a more user-friendly Information Note on enquiry requests and assistance applications.

Also, in July 2004, the Commission decided to delegate decision-taking on enquiry requests and assistance applications to the Commission’s Chief Executive. As before, all decisions would be taken only after the formal request or application had been processed by the Commission’s casework officers. Prior to the delegation, the Commission’s Casework Committee took 16 decisions on behalf of the Commission in 2004, while the Commission’s Review Committee considered 19 requests for a review of negative decisions taken (including Casework Committee decisions taken in 2003). In each case reviewed, the original decision of the Casework Committee was affirmed. Delegation meant that the Casework Committee’s role changed and there was no longer a Review Committee after outstanding requests to that Committee had been considered (October 2004).

There is no longer a review of negative decisions taken. However requests or applications may be resubmitted where new material facts can be demonstrated and where these facts could not have been brought to the attention of the Commission before the decision on the original request or application was taken.

Following the adoption of the new procedure, a concerted effort was made to reduce the backlog of formal requests or applications by year’s end. In December 2004, a casework database was introduced in order to allow for better administration of casework communications.

five : international work

The remit of the Commission includes participation in the Joint Committee of representatives of the Commission and of the Northern Ireland Human Rights Commission, provided for in the Good Friday Agreement, and consultation with other international bodies and agencies having a knowledge or expertise in the field of human rights.

THE JOINT COMMITTEE

The Joint Committee met in ordinary session on three occasions over the course of the year:

- 11th March 2004 in Belfast;
- 9th September 2004 in Dublin;
- 2nd December 2004 in Belfast.

It also held a special meeting in Belfast on 28th April 2004 to discuss the implications of the proposal of the Irish Government to amend the provisions on citizenship in the Irish Constitution, particularly those relating to birth in the island of Ireland, which had been part of an earlier amendment linked to the conclusion of the Good Friday Agreement. A copy of the press statement issued that day by the Joint Committee immediately after its meeting is reproduced at Appendix 8.

Besides the consideration of human rights matters of common interest in plenary meetings of the Joint Committee, the Sub-Committee on Racism and the Sub-Committee on the Charter of Rights for the Island of Ireland progressed matters in their respective areas. In addition, at its

March meeting in Belfast, the Committee established a Sub-Committee on Emergency Laws.

The situation and treatment of migrant workers were a matter of particular concern to the Joint Committee during the year. On 5 February 2004, a North South Roundtable on migrant workers was held in Belfast. The Roundtable was organised by the Equality Commission for Northern Ireland and the National Consultative Committee on Racism and Interculturalism, in co-operation with the Irish and the Northern Ireland Human Rights Commission and with the Equality Authority of Ireland.

The two Human Rights Commissions encouraged the other members of the European group of national human rights institutions to press their Governments to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and, on 19 March 2004, they themselves issued a joint statement urging the British and Irish Governments to do so.

THE JOINT EQUALITY AND HUMAN RIGHTS FORUM

The Commission is a member of the Joint Equality and Human Rights Forum which brings together many of the statutory equality and human rights bodies in Ireland and in the United Kingdom. The other members are the Equality Authority, the Northern Ireland Human Rights Commission, the Equality Commission for

Northern Ireland, the Commission for Racial Equality, the Disability Rights Commission and the Equal Opportunities Commission.

The Forum held several meetings during the year. The Commission was represented at each of the meetings, and these are described at page 13 above.

THE INTERNATIONAL CO-ORDINATING COMMITTEE

The International Co-ordinating Committee of National Institutions for the Protection and Promotion of Human Rights oversees, via a Credentials Committee, compliance by national human rights institutions (NHRIs) with the UN Paris Principles relating to these institutions. The Commission previously had a reservation attached to its accreditation, pending the publication of an annual report, but in 2004 the reservation was lifted following on the publication by the Commission of its 2003 Annual Report. The Commission is now a fully accredited independent national human rights institution at international level.

The International Co-ordinating Committee also serves as a forum for the co-ordination of the activities of NHRIs and the discussion of matters of common interest. Every other year it plans and organises with a host institution an international conference for NHRIs in co-operation with the office of the UN Commission on Human Rights. It also holds an annual meeting in Geneva in conjunction with the consideration by the UN

Commission on Human Rights of an agenda item on NHRIs.

The Commission was represented at the annual meeting of the International Co-ordinating Committee, which was held on 15th and 16th April 2004. Apart from the regular agenda items, time was set aside for discussion on two thematic topics:

- (i) the new International Convention to Promote and Protect the Rights and Dignity of Persons with Disabilities; and
- (ii) human rights education.

The International Co-ordinating Committee has four regional groups: one each for Africa, Europe, the Americas and the Asia-Pacific region. The European regional group held four meetings in 2004, two hosted by the Swedish Disability Ombudsman in Stockholm specifically to consider the proposed UN Convention on the rights of persons with disabilities and which were covered above at page 12 and two regular meetings. The regular meetings were held in Geneva on 13th April 2004 and in Berlin on 26th November 2004. At the November meeting, the Commission stood for, and was elected as one of four European representatives to the International Co-ordinating Committee.

UN COMMISSION ON HUMAN RIGHTS

Immediately prior to the annual meeting of the International Co-ordinating Committee of NHRIs, the Chief Executive delivered a statement, on behalf



Dr. Alpha Connelly, IHCR

of the Commission, to the 60th Session of the UN Commission on Human Rights, under the UN Commission's agenda item dealing with NHRIs. The text of the statement is reproduced at Appendix 9.

COUNCIL OF EUROPE

The Commission was represented at the 3rd Round Table of NHRIs co-organised by the Commissioner for Human Rights of the Council of Europe and the German Institute for Human Rights, Berlin, 25th -26th November 2005. The following three topics were discussed at the Round Table:

- recent developments in the system of human rights protection within the Council of Europe;
- the protection of human rights in the context of the fight against terrorism; and
- the protection of victims of trafficking in human beings.

The President acted as rapporteur for the first topic.

INDEPENDENT MONITORING COMMISSION

Representatives of the Commission met with the Independent Monitoring Commission in Dublin Castle on 14th June 2004. The Independent Monitoring Commission was set up by the British and Irish Governments on 7th January 2004. Its purpose is to help promote the establishment of stable and inclusive devolved government in a peaceful Northern Ireland. In the course of its work it meets with many organisations in Ireland, North and South.

UK JOINT PARLIAMENTARY COMMITTEE ON HUMAN RIGHTS

Representatives of the Commission met with the UK Joint Parliamentary Committee on Human Rights on 14th October 2004.

BRITISH-IRISH INTER-PARLIAMENTARY BODY

Representatives of the Commission met with members of the British-Irish Inter-Parliamentary Body on 13th December 2004. This body was formally established in 1990, and its purpose is to bring together members of the participating institutions to consult on a wide range of non-legislative parliamentary activities.

six : further activities

COMMISSION SEMINARS

During 2004, the Commission introduced a series of internal seminars for Commissioners and staff, using the expertise within the Commission. The following seminars were held immediately prior to plenary meetings:

- 29th July: Issues arising in relation to same-sex marriage and committed relationships, by Commissioner William Binchy;
- 30th September: The rights of Irish migrants in prisons abroad, by Commissioner Nuala Kelly;
- 28th October: Posttraumatic stress disorder and victims of torture, by Commissioner Robert Daly.

CO-OPERATION WITH THE LAW SOCIETY OF IRELAND

The Commission co-hosts with the Law Society an annual conference on a human rights theme.

The annual conference was held on Saturday, 16th October 2004, in the President's Hall, Law Society, Blackhall Place, Dublin 7, on the topics, "ECHR Act Review and Human Rights in Committed Relationships". Over 250 people attended the conference, including officials and elected representatives of local authorities and members of gay and lesbian organisations. A copy of the conference programme is reproduced at Appendix 10.

Participants at the Joint Annual Conference of the Irish Human Rights Commission and the Law Society of Ireland which took place on 16th October 2004 included Dr. Paraic Kenna, NUI Galway; Commissioner Katherine Zappone, IHRC; Sean Barton, Solicitor with McCann FitzGerald Dublin, Charlotte Kilroy, Matrix Chambers, London; Prof. Robert Wintemute of King's College, University of London; Dr. Ursula Kilkelly of UCC; Mr James MacGuill member of Law Society Council; Mrs Justice Susan Denham, Supreme Court, and Alma Clissmann of the Law Society.



HUMAN RIGHTS EDUCATION AND TRAINING

The Commission participates in a cross-border primary schools human rights education project, known as “Lift Off”. The project partners are Amnesty International (Irish Section), Amnesty International (UK Section), Education International, the Irish National Teachers’ Organisation, and the Ulster Teachers’ Union. The Commission is represented on the Steering Committee of the project in an advisory capacity. The other bodies represented on the Steering Committee are the Northern Ireland Human Rights Commission, the Departments of Education in the Republic of Ireland and in Northern Ireland, curricular bodies and the project partners. The Steering Committee met four times in 2004.

In 2004, the Steering Committee considered and approved the holding in late 2005, of a human rights education conference targeted at public policy-makers and others working at policy level in the formal education systems at primary school level in the Republic of Ireland and in Northern Ireland. The Commission has agreed to co-sponsor this conference, which has been given the provisional title of “The Inclusive School”.

During the year, the Commission also entered into communication with the Garda Training College in Templemore with a view to the possibility of the Commission making an input on human rights matters into its training programme.

On 3rd and 4th December 2004, the Commission was represented at a meeting of NHRI education officers, hosted by the German Institute for Human Rights in Berlin. The Meeting coincided with the ending of the UN Decade of Human Rights Education, by which time UN member states were to have developed action plans on human rights education.

CORPORATE IMAGE

On 24th June 2004, the Commission adopted a new logo. It is:



PRODUCTION OF VIDEO

Early in the year, the Commission issued an invitation to tender for the production of a short video on the Commission and its work and, as a result of the tendering process, Windmill Lane was commissioned to produce a video. Windmill Lane worked closely with the Commission on the video, which was completed in December 2004. The video is available in the English language, the Irish language and Signed language.

seven : corporate services

STAFF MATTERS

Performance Management and Development System (PMDS)

A Performance Management and Development System was introduced in early 2004, which all staff members participated in throughout the year.

The system was adapted from 'Excellence through Performance', a system designed along the Strategic Management Institute (SMI) better governance guidelines. This system concentrates on the developmental approach, with the emphasis on management rather than on appraisal, i.e. the management of careers and of each employee's development.

The PMDS system used is also a competency-based approach that highlights development needs. In essence, it takes an employee's position and looks at it in terms of the knowledge, skills, behaviours and attributes required for that person to fulfil their role, and at what training and development needs are required for them to be successful.

This 'competency framework' of knowledge, skills, behaviour and attributes focuses on how the job or role is performed by identifying the elements that contribute to achieving effective performance.

Staff Training

The Commission is committed to the further development of its staff. In furtherance of this

commitment during 2004 members of staff attended the following courses, amongst others:

- Intensive course on the Justiciability of Economic, Social and Cultural Rights (Turku, Finland)
- Fire Warden Training (Dublin)
- Financial Management (Dublin)
- Personal Safety at Work (Dublin)
- Effective Presentation Skills (Dublin)
- Risk Assessment in the Public Sector (Dublin)
- Human Rights Residential Seminar (Galway)
- Public Sector Management (Dublin)
- Corporate Governance (Dublin).

Policies relating to Staff

During the year the following policies relating to staff were adopted:

- A policy dealing with abusive and aggressive callers
- A health and safety statement
- An employment equality policy
- An integrated staff policy document on grievance and disciplinary procedures.

FINANCIAL STATEMENTS

System of Internal Financial Controls

The system of internal financial control provides reasonable assurance that assets are safeguarded, transactions authorised and

properly recorded, and that material errors or other irregularities are either prevented or would be detected on a timely basis.

The Commission has taken steps to ensure an appropriate control environment is in place by: defining responsibilities, establishing formal procedures and developing a culture of accountability.

The system of internal financial control is based on a framework of regular management information, administration procedures including segregation of duties, as well as delegation and accountability. It includes a comprehensive budgeting system with an annual budget that is agreed and reviewed.

Regular reviews of periodic and annual financial reports take place to compare actual figures against forecasted ones.

The Commission is informed on matters of internal financial control by the work of the Finance and Audit Committee.

Statement of Responsibilities of the Commission

The Human Rights Commission is a very recently established body and during the years 2001, 2002 and parts of 2003 and 2004 some of the Commission's expenditure was administered directly by the Department of Justice, Equality and Law Reform.

The Finance and Audit Committee meets at least 4 times a year to monitor and review financial controls and audit matters and to advise on internal controls.

A system of Internal Financial Controls has been introduced to provide guidance in areas such as procurement, tendering procedure and subsistence payments.

Statement of Accounting Policies and Principles

GENERAL

The Commission accounts for 2004 were prepared in accordance with section 16 of the Human Rights Commission Act, 2000 and presented in draft form to the Comptroller and Auditor General's Office for audit at the end of March 2005.

GRANT

In accordance with section 22 of the Human Rights Commission Act, 2000, the Commission receives an annual grant from the Minister for Justice, Equality and Law Reform. Starting in 2004, the grant took the form of a grant-in-aid.

The grant-in-aid is shown on a cash receipts basis.

In the first quarter of 2004, the pay element of the grant-in-aid was directly administered by the Department of Justice, Equality and Law Reform. This expenditure is included in the income and

expenditure account and is matched by corresponding income. The Commission assumed full administrative control of its annual grant-in-aid from 1st April 2004, subject to quarterly drawdowns from the Department of Justice, Equality and Law Reform.

PERIOD OF FINANCIAL STATEMENTS

The Financial Statements cover the period 1st January to 31st December 2004.

BASIS OF ACCOUNTING

The Financial Statements have been prepared on an accruals basis under the historical cost

convention in the format approved by the Minister for Justice, Equality and Law Reform, and in accordance with generally accepted accounting practice.

TANGIBLE FIXED ASSETS

Depreciation is calculated in order to write off the cost of tangible fixed assets over their estimated useful lives as follows:

- Buildings: 4%
- Office Equipment: 20%
- Fixtures and Fittings: 20%

YEAR ENDED 31 DECEMBER 2004

€

€

Income

Department of Justice, Equality and Law Reform, Vote 19, Subhead B2	1,823,000
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Summary of Expenditure

Salaries	(i)	783,915
Fees	(ii)	223,091
Audit		6,000
Cleaning		8,323
Research / Consultancy		11,946
Conference		5,535
Insurance		16,606
IT		25,302
Legal Exp.		1,966
Library		23,418
Heating/Lighting		7,673
Miscellaneous		12,351
Office		59,417
Premises		256,445
Printing		35,335
Telcos		12,804
Training		3,735
Travel and Subs.		24,797
Depreciation		37,807

Notes to the Financial Statements

(i) Salaries

Under section 18 of the Human Rights Commission Act, 2000, the Commission in determining the remuneration or other allowances of its staff shall have regard to Government or nationally agreed guidelines. The Commission shall comply with any directives with

regard to such remuneration, allowances, terms or conditions which the Minister for Justice, Equality and Law Reform may give to the Commission with the consent of the Minister for Finance.

Besides staff salaries, the salaries figure includes an annual payment, equivalent to that of a Judge of the High Court, to the President as approved by Government.

(ii) Commissioners Fees

Fees of €12,697 are payable to each of the 14 Commissioners.

(iii) Superannuation

Under section 20 of the Human Rights Commission Act, 2000, a superannuation scheme was submitted to the Minister and in March 2003 the Minister for Finance agreed to the Commission's proposed scheme being put into operation as soon as possible.

(iv) Operating Lease

The Commission holds a 25 year lease from 17 November 2003, in respect of office accommodation in Jervis House. The annual cost of the lease is €213,357 with a five year rent review.

INFORMATION TECHNOLOGY

The Commission maintains a high quality and modern IT infrastructure with support provided by a firm of external consultants.

The Commission's e-mail system is protected by a system of three firewalls. In keeping with modernisation initiatives the Commission is committed to ensuring that its IT system is as advanced as possible and compatible with those of its stakeholders.

WEBSITE

The Commission's website (www.ihrc.ie) was launched in December 2003 and is continually updated. The Commission website has Level Double-A Conformance to Web Content Accessibility Guidelines 1.0.

Visitors to the website can register for regular updates on the work of the Commission. In 2004, the Commission's website received 49,523 visits. The following monthly breakdown shows that awareness of the Commission and its website is showing significant month on month increases going from 3,003 visits in the month of January to 5,535 in December 2004.

Visits to Commission website www.ihrc.ie during 2004:

■	December	5,535
■	November	5,533
■	October	4,505
■	September	4,525
■	August	4,203
■	July	3,724
■	June	3,138
■	May	4,512
■	April	3,432
■	March	3,912
■	February	3,501
■	January	3,003
■	2004 Total	49,523

DATA PROTECTION ACTS 1988 AND 2003

The Commission has put procedures in place to ensure conformity with the Data Protection Acts 1988 and 2003.

PROMPT PAYMENTS ACT 1997

The Commission incurred no interest payments in 2004 under the Prompt Payments Act, 1997.

ETHICS IN PUBLIC OFFICE ACTS, 1995 TO 2001

At its plenary meeting in January 2004, the Commission approved a Register of Commissioners' Interests. The President and Commissioners are subject to the requirements of the Ethics in Public Office Acts and have completed appropriate statements of interest in 2004. All relevant staff holding prescribed positions have been made aware of their obligations under the ethics in public office legislation.

STRATEGIC PLAN

The Commission's Strategic Plan, *Promoting and Protecting Human Rights in Irish Society. A Plan for 2003-2006* was translated into Irish and posted on the Commission's website in April 2004.

OFFICIAL LANGUAGES ACT 2003

On 28 July 2004, an official of the Department of Community, Rural and Gaeltacht Affairs held a seminar with senior members of staff on the requirements of the Official Languages Act 2003.

LIBRARY

The Commission established a small library in 2004, and the services of a librarian were retained on a part-time consultancy basis to categorise and classify library purchases and to maintain the library.

appendix one

BIOGRAPHIES OF MEMBERS OF THE COMMISSION

MANNING, Maurice (President)

Dr Maurice Manning was appointed President of the Commission in August 2002.

An academic by background, Dr Manning previously lectured in politics in University College Dublin and has been visiting professor at the University of Paris (Vincennes) and the University of West Florida. He is a member of the Senate of the National University of Ireland, of the Governing Authority of University College Dublin and was a member of the Governing Authority of the European University Institute at Florence.

Dr Manning has written several books on modern Irish politics. He was a member of the Oireachtas for twenty-one years, serving in both the Dáil and the Seanad. He was a member of the New Ireland Forum and the British Irish Inter Parliamentary Body. He served as both Leader of the Seanad and Leader of the Opposition in that House.

BINCHY, William

Professor Binchy is Regius Professor of Laws at Trinity College, Dublin. He was special legal adviser on family law reform to the Department of Justice, preparing legislation on family maintenance, protection of the family home and domestic violence. As Research Counsellor to the Law Reform Commission he advised on reform of law relating to the status of children. He has represented Ireland at the Hague Conference on Private International Law in the areas of marriage and inter-country adoption. He has actively contributed to public discussion of human rights issues, including those relating to

divorce, abortion, Travellers and asylum seekers. He has participated in a programme on constitutionalism for the Tanzanian judiciary held in Dar es Salaam, is co-organiser of a training programme for the magistracy of Botswana and organiser of the annual African workshop on constitutionalism for the Chief Justices and senior judiciary of African states, held in Trinity College, Dublin, which is now in its eighth year. He was a Visiting Fellow at Corpus Christi College Cambridge for the Michaelmas term of 2002 and was a member of the Hederman Committee to Review the Offences Against the State Acts, which reported in May 2002.

BRAIDEN, Olive

Olive Braiden is former Director of the Rape Crisis Centre. In this context she campaigned for legislative reform in the area of rape and child sexual abuse. She initiated and published research on the law on rape in the EU. She established training programmes for community workers in the former Yugoslavia. In the aftermath of the war these programmes are continuing in Kosovo. She is a board member of the Courts Service, the Judicial Advisory Board and is Chairwoman of the Crisis Pregnancy Agency and chairwoman of the Arts Council. She has served on many Government Working Parties and Steering Committees and was a founding member of UNIFEM. Over a period of fifteen years she has lived in Spain, France, Belgium, the UK, Bahamas and Thailand. She recently completed a M.Phil in Gender Studies in Trinity College Dublin.

COLLINS, Martin

Martin Collins is Assistant Director of Pavee Point Travellers' Centre. He has extensive

experience of community work with Travellers over 17 years. He is a former member of the Government Task Force on the Travelling Community which is generally regarded as a milestone in terms of offering a new analysis and framework for action on the problems experienced by Irish Travellers. He then went on to become a member of the Monitoring Committee set up to monitor the implementation of the 1995 Task Force Report. He is also a founding member of the Irish Traveller Movement which has a membership of over 80 Traveller groups. Through his work at Pavee Point he is involved in providing anti-racism training to a wide range of professions including the Gardaí, teachers and social workers. He was also actively involved in the campaign for the introduction of anti-discrimination legislation, namely the Equal Status Act and the Employment Equality Act, which for the first time offered redress to Travellers who experienced unlawful discrimination.

DALY, Robert

Professor Daly is an expert on Posttraumatic Stress Disorder, on the psychiatric effects of interrogation and torture and on the medical aspects of human rights in general. In the past he represented the Irish Government in the torture case against the UK at the European Commission on Human Rights, was a member of Amnesty International's Medical Advisory Board awarded the European Peace Prize, advised the American Civil Liberties Union, and has worked for victims of abuse in Latin American States and the Balkan Wars. He has evaluated programmes of the European Commission and the Council of Europe in many parts of the world. He has also

been a trainer for the Committee for the Prevention of Torture, for human rights workers in the Kosovo conflict, etc. He has served as an expert witness in numerous human rights-related cases on both sides of the border and in the UK. He currently serves on the World Psychiatric Association's Committee dealing with allegations of abuse and, as Chairman of the Irish Division of the Royal College of Psychiatrists, advised the Minister for Health on changes in Mental Health law. He was formerly Dean of Medicine and head of the Psychiatry Department at University College Cork, Clinical Director in the Southern Health Board and a member of the Medical Research Council.

EGAN, Suzanne

Suzanne Egan has been a lecturer in International and European Human Rights Law at the Faculty of Law in University College Dublin since 1992. She is a qualified barrister and holds a Master of Laws Degree from Osgoode Hall Law School in Toronto. Prior to lecturing at UCD, she was the Legal Supervisor of an independent research centre on refugee law and policy in Canada (1989-1991) and a Research Assistant at the Law Reform Commission in Ireland (1991-1992). She is a founding member of the Refugee Protection Policy Group in Ireland, an independent group of lawyers, academics and others working in the field of refugee law and policy. She is also a former member of the Executive Committee of the Irish Refugee Council. She has published widely in the area of human rights, particularly with regard to refugee law and policy.

FARRELL, Michael

Michael Farrell was prominently involved in the

Civil Rights movement in Northern Ireland in the 1960s and 1970s and has campaigned on many civil rights and human rights issues over the last 30 years. He was involved in campaigns for the Birmingham Six and other victims of miscarriages of justice in the 1980s and in the campaign against political censorship under Section 31 of the Broadcasting Act. He was vice-chair and then co-chair of the Irish Council for Civil Liberties for most of the 1990s and was involved in campaigns for gay rights, divorce, equality laws, refugee rights, against racism, and for the incorporation of the European Convention on Human Rights into Irish law. He has an M.Sc. in Politics and was formerly a journalist and author. He is now a solicitor and has been involved in taking cases to the European Court of Human Rights and other international bodies. Born and brought up in Co. Derry, he lived for 20 years in Belfast before moving to Dublin where he now lives.

HARDING CLARK, Maureen

Maureen Harding Clark was called to the Bar in Dublin in 1975 following university education at Lyons, UCD, Trinity College and the King's Inns. She practiced first on the South Eastern Circuit and then as Senior Counsel in Dublin from 1991. She had a comprehensive legal practice establishing expertise in Criminal Law and Medical Negligence. She has acted for the families of the bereaved in many inquests and has represented the Government in a large number of children's special needs cases.

While a Senior Counsel, she served on the Bar Council. She was one of the first Judges ad Litem at the International Criminal Tribunal for the

Former Yugoslavia at The Hague. While serving as a Judge at the ICTY she was elected as a Judge of the International Criminal Court and was sworn in on March 11 2003. She has been appointed to serve as a trial Judge and will take up such duties only when the first case has completed its pre-trial and appeals stage. In common with the other Trial Chamber Judges of the ICC she has not taken up her full time position and has been engaged in reviewing and writing the new rules of practice for the Court.

Since her election Maureen Clark has been engaged extensively in outreach programmes for the Court. She has traveled to Chile, the US, UK and several European capitals to address ICC issues with judiciary, politicians and academics and students. She is currently engaged on an inquiry for the Department of Health and Children. On completion of the inquiry she expects to take up her position at the International Criminal Court which deals with war crimes, genocide and crimes against humanity.

KELLY, Nuala

Nuala Kelly has worked at national and international level to ensure respect and enforcement of the human rights of Irish emigrants and prisoners abroad. As former Co-ordinator of the Irish Commission for Prisoners Overseas, she helped co-ordinate campaigns to vindicate the rights of the Birmingham Six, the Guildford Four, the Maguire family and other victims of injustice and built a case service for all Irish prisoners abroad.

She continues her work with prisoner-related projects such as Expac and the Educational Trust,

a cross-border body which allocates grants for education and training to ex-prisoners. She also does consultancy and research work with a focus on prison, migration and social policy issues.

She participated in the Forum for Peace and Reconciliation and was a member of the Consultative Forum of the EU Peace Programme. She was also a member of the Human Rights Working Group of the Irish Commission for Justice and Peace and a board member of the Belfast-based Centre for Research and Documentation.

She was educated at Queen's University Belfast, holds an MSc in Sociology and has trained in international human rights advocacy at Columbia University, New York. She has taught on human rights and adult education courses and participated in campaigns for the rights of women and communities.

LIDDY, Jane

Jane Flood Liddy, born in Dublin, called to the Irish Bar (1972), holds a Diploma in European Law (1974), was the last Irish member of the European Commission on Human Rights (1987-1999). This independent body had jurisdiction over approximately 40 countries. She is a former President of its First Chamber. The work involved rejecting some cases, often after adversarial, including oral, proceedings, in decisions not subject to appeal and also assessing the merits of other cases by investigations e.g. in Turkey, prior to final judgment by the Court of Human Rights in Strasbourg. She resigned from the Civil Service in 1987 to take up this post. Before that, she was Deputy Legal Adviser in the Department of Foreign Affairs, where her duties included

advising on all aspects of international human rights law. She has published and has had speaking engagements on human rights issues in Ireland and abroad since 1984.

McGRORY, Clodach

Clodach McGrory was born in Belfast. She was awarded a BA degree in Irish by Trinity College, Dublin in 1986 and subsequently was awarded a certificate in professional legal studies and an LLM degree in Human Rights and Emergency Law by Queen's University, Belfast.

She practised as a barrister in Northern Ireland and later worked at the Northern Ireland Law Centre. She was an active member of the Belfast-based NGO, the Committee for the Administration of Justice.

In 1997 she was appointed to the Standing Advisory Committee on Human Rights in Northern Ireland.

Following the Good Friday Agreement, in 1998 she was appointed as a Sentence Review Commissioner. In this capacity, she had responsibility for the release of prisoners convicted under emergency legislation in Northern Ireland.

Since May 2002 she has held a part-time judicial appointment as a Chairperson of Social Security Appeal Tribunals.

In July 2002 she was appointed to the Life Sentence Review Commission, an independent body which makes decisions on the release of life sentence prisoners convicted under non-emergency legislation in Northern Ireland.

Ní AOLÁIN, Fionnuala

Professor Fionnuala Ní Aoláin is Professor of Law at the University of Ulster's Transitional Justice Institute and Visiting Professor at the University of Minnesota Law School. She has previously been Visiting Scholar at Harvard Law School (93-94); Associate-in-Law at Columbia Law School (94-96); Visiting Professor at the School of International and Public Affairs Columbia University (96-00); Assistant Professor of Law at the Hebrew University (97-99) and Visiting Fellow at Princeton University (01-02).

Her teaching and research interests are in the fields of international law and international human rights law. She has published extensively in the fields of emergency powers, conflict regulation, and sex based violence in times of war. She is an elected member of the Executive Committee for the Belfast based Committee on the Administration of Justice, and is also a member of the Irish Council for Civil Liberties. She was previously a representative of the Prosecutor at the International Criminal Tribunal for the Former Yugoslavia at domestic war crimes trials in Bosnia (96-97). In 2003 she was appointed by the United Nations Division on the Advancement of Women as Special Expert on promoting gender equality in times of conflict and peace making. She is a native Irish speaker.

O'HIGGINS, Tom

Tom O'Higgins is a chartered accountant and is a graduate in Economics and History from University College Dublin and in Human Resources Management from Sheffield Business School. He is a former president of the Institute of Chartered Accountants, a member of the

Institute of Personnel and Development and of the Institute of Taxation.

He was a partner at PricewaterhouseCoopers from 1969 to 2000 where he was a senior audit partner and Head of Human Resources. He continues to assist organisations in recruitment and human resource issues and serves as a member of selection boards for the Civil Service Commission and for other bodies. A specialist in corporate governance, he is Chairman of the Coombe Women's Hospital, and is recent Chairman and a member of the Board of Concern Worldwide. He is chairman and a member of the audit committees of a number of State and semi-state bodies. He is also a member of the Change Partnership, an executive coaching and mentoring organization and is a director of a number of private companies.

QUINN, Gerard

Gerard Quinn is a professor of law at NUI, Galway. Called to the Irish Bar in November 1983, he holds a Harvard Doctorate in Juridical Science (S.J.D.). He is a former Director of Research at the Law Reform Commission and led the legal research team of the Commission on the Status of Persons with Disabilities. He has worked with the European Commission on general human rights issues as well as on the preparation of EU policy instruments in the field of disability rights. He is Director of an EU Network of Disability Discrimination Lawyers. He is a member of the European Committee of Social Rights (Council of Europe). He is a member of the research advisory boards of Land Mine Survivors Network (Washington DC), Soros Foundation EU Monitoring Programme on

Accession Countries on Disability (Budapest), AHEAD (Association for Higher Education Access and Disability), Dublin, and European Children-Our Concern (Brussels). He is a member of the United Nations Working Group convened to draft a treaty on the rights of persons with disabilities. He has published widely on economic, social and cultural rights, on the rights of persons with disabilities and on the EU and human rights.

TAYLOR, Mervyn

Mervyn Taylor is a former Minister for Equality and Law Reform and was a Dáil Deputy for over 16 years. He served as Assistant Government Chief Whip from 1982 to 1987. While in opposition he held various spokesperson positions including Education, Justice, Finance and Public Service, Industry and Commerce, and Employment Equality and Law Reform. He is a practising solicitor for 40 years, apart from the period in which he held Ministerial Office. He is a former member of the European Monitoring Committee on Racism and Xenophobia.

ZAPPONE, Katherine

Katherine Zappone is a philosopher, educator

and independent public policy research consultant. As former Chief Executive of the National Women's Council in Ireland, she participated in a number of committees and working groups at national, European and international level to advocate women's social and economic rights and gender equality. She is a former member of the National Economic and Social Council of Ireland and has conducted a number of national research projects in public policy and gender equality, and equality in children's education. She is co-founder and Chair of An Cosán, a large community-based organization in West Tallaght, Dublin committed to eradicating poverty through education. She lectured for a decade in Trinity College Dublin in ethics and human rights, and has lectured in Canada, Australia, Europe, the USA and throughout Ireland. Widely published in feminism, ethics, equality issues and education, she conducts research, consults and teaches. Her most recent work includes: *Charting the Equality Agenda: A Coherent Framework for Equality Strategies in Ireland North and South* (2001) and *Re-Thinking Identity: The Challenge of Diversity* (2003). She holds a PhD in Education and Religion from Boston College.

appendix two

TERMS OF REFERENCE AND MEMBERSHIP OF THE COMMITTEES OF THE COMMISSION

COMMITTEE ON THE ADMINISTRATION OF JUSTICE

Members

- Maurice Manning (Convenor)
- William Binchy
- Michael Farrell
- Maureen Harding Clark
- Nuala Kelly
- Fionnuala Ní Aoláin

Terms of Reference

1. To further the Human Rights Commission's objectives in the Key Area of the Administration of Justice, including the issue of emergency laws.
2. To identify priorities and to develop strategy in relation to the Key Area of the Administration of Justice as set out in the Strategic Plan 2003-2006.
3. To examine how the Commission should engage with the issue of the Offences Against the State Acts, 1939-1989.

AD HOC COMMITTEE ON AN AMICUS CURIAE REQUEST

(29 January – 29 April 2004)

Members

- Jane Liddy (Convenor)
- William Binchy
- Gerard Quinn
- Mervyn Taylor

Terms of Reference

In relation to a request from a firm of solicitors, to assess whether there is a major issue warranting briefing counsel to apply under section 8(h) of the Human Rights Commission Act, 2000 to the Supreme Court (in the form of

the Court of Criminal Appeal) for liberty to appear before it as *amicus curiae*, and to place this assessment within the context of an overall approach to such requests..

AD HOC COMMITTEE ON AN "AWAY DAY"

(Established at the 41st ordinary meeting of the Commission on 30 September 2004)

Members

- Maurice Manning (Convenor)
- Katherine Zappone
- Clodach McGrory
- Alpha Connelly

Terms of Reference

To examine the structure of an "Away Day" and recommend a programme to plenary.

CASEWORK COMMITTEE

Members

- Maurice Manning (Convenor)
- Clodach McGrory (who went on maternity leave mid-year)
- Robert Daly
- Nuala Kelly
- Fionnuala Ní Aoláin (who went on maternity leave in December)
- Mervyn Taylor

Terms of Reference

1. To establish procedures for the performance of the functions of the Commission under sections 8(f), (h), (j) and (k), 9, 10 and 11 of the Human Rights Commission Act, 2000.
2. On the recommendation of the Senior

Caseworker or the Chief Executive, to take decisions on behalf of the Commission in the application of the criteria specified in the document, Criteria for Dealing with Requests under Sections 9(1)(b) and 10 of the Human Rights Commission Act, 2000, with certain exceptions which shall be referred for decision to the Commission sitting in plenary, as are set out in the Appendix attached hereto.

3. To develop, subject to the direction of the Commission, the Commission's policy and strategy with respect to casework.
4. To consider other proposals by the Senior Caseworker and the Chief Executive in relation to the performance of the functions of the Commission under sections 8(f), (h), (j) and (k), 9, 10 and 11 of the Human Rights Commission Act, 2000, and to report to the Commission sitting in plenary thereon.
5. Pending further consideration by the Commission, to take, in emergency situations*:
 - (i) decisions on behalf of the Commission as to whether or not to apply, further to section 8(h) of the Act, to the High Court or the Supreme Court for liberty to appear as *amicus curiae* and to so apply and appear, as required
 - (ii) decisions on behalf of the Commission as to whether or not to institute court proceedings seeking relief in respect of a human rights matter, further to sections 8(k) and 11 of the Act and to institute proceedings, as required.

* *Emergency situations are those urgent and grave situations which, in the opinion of the convenor of the Casework Committee, require consideration before the next ordinary meeting of the Commission (and where it is not feasible to convene an extraordinary meeting) and which are related to the Commission's functions under either section 8(h) of the Act (amicus curiae application and appearance), or sections 8(k) and 11 of the Act (instituting proceedings seeking relief of a declaratory or other nature).*

Examples of an emergency situation would be where the Commission receives a request relating to imminent superior court proceedings; the Commission being requested to appear as amicus curiae in the proceedings, or where the Commission receives a request in relation to urgent injunctive relief being sought by a person or class of persons concerning her/his or their human rights. An emergency situation does not include a situation caused by delay on the part of the person (or their representative) in making the request to the Commission.

Appendix to the Terms of Reference

Section 9(1)(b) and section 10 matters to be reserved to the Plenary for decision.

Where the Casework Committee, after taking into account a preliminary costing of a proposed enquiry under section 9(1)(b) of the Act or proposed "assistance" under section 10 of the Act, considers that the projected cost will exceed 10,000, it shall refer the matter for decision to the Commission sitting in plenary.

Revised Terms of Reference

(as adopted by plenary 29 July 2004)

1. To establish procedures for the

performance of the functions of the Commission under sections 8(f) (in relation to section 9(1)(a)), 8(h) and (k) of the Human Rights Commission Act, 2000 (the Act), subject to approval by plenary;

2. To consider proposals by the Chief Executive in relation to the performance of the functions of the Commission under sections 8(f) (in relation to section 9(1)(a)), 8(h) and (k) of the Act, and to report to the Commission sitting in plenary thereon;
3. To consider matters referred to it by the Chief Executive under sections 9(1)(b) or 10 of the Act and either make any recommendations thereon to the Chief Executive, or refer the matter to the plenary for its views;
4. To develop, subject to the direction of the Commission and subject to the delegation of any function to the Chief Executive, the Commission's policy and strategy with respect to casework and make recommendations to the Commission sitting in plenary thereon;
5. To consider requests by individuals or proposals by the Chief Executive, further to the Commission's *Amicus Curiae Guidelines*, that the Commission apply, further to section 8(h) of the Act, to the High Court or the Supreme Court for liberty to appear before the relevant court as *amicus curiae* in proceedings

before the relevant court that involve or are concerned with the human rights of any person and to make recommendations to the Commission sitting in plenary thereon;

6. To consider requests by individuals or proposals by the Chief Executive that the Commission institute court proceedings seeking relief in respect of a human rights matter, further to sections 8(k) and 11 of the Act and to make recommendations to the Commission sitting in plenary thereon.

DISABILITY COMMITTEE

(Established at the 39th Ordinary Meeting of the Commission on the 24th June 2004)

Members

- Gerard Quinn (Convenor)
- Maurice Manning
- Katherine Zappone
- William Binchy

Terms of Reference

To consider and make proposals to plenary in respect of the promotion and protection of the rights of persons with disabilities

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Members

- Katherine Zappone (Convenor)
- William Binchy
- Martin Collins
- Suzanne Egan
- Nuala Kelly
- Gerard Quinn

Terms of Reference

1. To carry out the Commission's policy on protection and progressive realisation of economic, social and cultural rights as set out in the Commission's Strategic Plan, and to work wherever possible in co-operation with other statutory and non-statutory bodies in the field.
2. To make proposals for the development of policy to the Commission, and proposals for research to the Commission's Research Committee.
3. To play a role in advancing an awareness and understanding of the nature of economic, social and cultural rights, and to focus on appropriate means of giving them practical effect.
4. To keep under review those aspects of domestic law, policy and practice that impact on issues of poverty and poverty-reduction.

FINANCE AND AUDIT COMMITTEE

Members

- Tom O'Higgins (Convenor)
- Maurice Manning
- Mervyn Taylor
- Alpha Connelly

Terms of Reference

To advise the Commission and the Chief Executive on all questions relating to the expenditure and the budget of the Commission and the keeping and auditing of the Commission's accounts.

GENDER & WOMEN'S RIGHTS COMMITTEE

(Renamed the **COMMITTEE ON GENDER AND**

EQUALITY at the 49th ordinary meeting of the Commission on 16th December 2004)

Members

- Katherine Zappone (Convenor)
- Olive Braiden
- Suzanne Egan (approved at plenary 29th April 2004)
- Maurice Manning

Terms of Reference

1. To ensure a rights-based perspective in the implementation of Government commitments to eliminate discrimination against women.
2. To carry out the Commission's policy on opposition to discrimination against women and the promotion of women's equality, working wherever possible with women's groups.
3. To oversee and contribute to the Commission's shadow report of Government's progress to UN Committee on the Convention on the Elimination of Discrimination Against Women. In this regard to :
4. Identify the scope of the Commission's submission
5. Identify primary areas of the Commission's intervention
6. Identify areas of research and evidence-gathering to provide the basis for comments on the Government report
7. Establish relationships with the women's human rights alliance (project coordinating NGO shadow report)
8. Consider inviting external experts to work with the Commission
9. Meet with the UN Committee on the

Commission's submission.

10. To make proposals to the Commission for research related to, and for developments of, its policy on gender and women's rights.

COMMITTEE ON RACISM

Members

- Michael Farrell (Convenor)
- Fionnuala Ní Aoláin
- Martin Collins
- Nuala Kelly
- Maurice Manning
- Tom O'Higgins

Terms of Reference

1. Will carry out HRC policy on opposition to racism and support for interculturalism as set out in the Commission's Strategic Plan and submission to the Steering Group on a National Action Plan Against Racism (NAPAR), working wherever possible in co-operation with other statutory and non-statutory bodies in the field and bodies representing minority ethnic groups.
2. Will make proposals to the Commission for developing its policy on racism and interculturalism.
3. Will continue to work with statutory and non-statutory bodies towards the development and implementation of the NAPAR. The basis of the Committee's work in this area will be the Commission's submission to the Steering Group on NAPAR.
4. Will keep under review those aspects of immigration and asylum law and practice that impact on the issues of racism and interculturalism (the Committee could begin this work but because of the amount of

legislation and agencies involved it might require a separate working group to research this area and formulate proposals).

5. Will play a role in publicising and promoting international human rights standards relevant to issues concerning racism and methods of monitoring and enforcing the application of those standards, with particular reference to Travellers, asylum seekers, migrant workers, refugees and generally Irish people of diverse ethnic backgrounds.
6. Will act as the Commissions representatives / or will delegate some of its members to act as the Commission's representatives on the Sub – Committee on Racism of the Joint Committee of the Commission and the NIHRC.

REMUNERATION COMMITTEE

(Established at the 38th ordinary meeting of the Commission on 27 May 2004)

Members

- Maurice Manning
- Olive Braiden
- Tom O'Higgins

Terms of Reference

Following on the adoption by the Commission of the scheme of performance related awards at Assistant Secretary level in the civil service, to progress the application of the scheme to the Chief Executive.

RESEARCH COMMITTEE

Members

- Jane Liddy (Convenor – until resignation in March 2004)

- Maurice Manning (*Pro tem* Convenor agreed at plenary 27th May 2004)
- Fionnuala Ní Aoláin (Convenor agreed at plenary 28th October 2004)
- William Binchy
- Suzanne Egan

Terms of Reference

To develop, subject to the direction of the Commission, the Commission's policy and strategy with respect to research and to oversee and co-ordinate the Commission's research activities.

REVIEW COMMITTEE

(This Committee became *functus officio* as of October 2004: see page 19 above.)

Members

- William Binchy (Convenor)
- Michael Farrell
- Tom O'Higgins

Original Terms of Reference

- To review negative decisions made by the Casework Committee and to this end:
- To meet, consider and decide on requests for a review of negative decisions made by the Casework Committee pursuant to section 9(1)(b) or section 10 of the Human Rights Commission Act, 2000, by reference to the Commission's document "Criteria for Dealing with Requests under section 9(1)(b) and 10 of the Human Rights Commission Act, 2000," where a person the subject of a negative decision requests such a review.

Revised Terms of Reference

(approved at the 37th ordinary meeting of the Commission on 29th April 2004)

1. To review negative decisions made by the Casework Committee pursuant to sections 9(1)(b) or 10 of the Human Rights Commission Act, 2000 (the Act) by reference to the Commission's document *Criteria for Dealing with Requests under Sections 9(1)(b) and 10 of the Human Rights Commission Act, 2000*, where a person the subject of a negative decision requests such a review within 28 days of the date of notification of the negative decision of the Casework Committee unless extenuating circumstances are demonstrated. In this regard, the Review Committee will decide what constitutes extenuating circumstances.
2. The grounds upon which a review of a negative decision of the Casework Committee will be considered shall be a request for review accompanied by documentation which demonstrates either:
 - that pertinent new information has come to light which the person could not reasonably have been expected to provide prior to the Casework Committee's decision or
 - evidence of bias on the part of the Casework Committee or
 - a clearly identifiable mistake of fact or law on the part of the Casework Committee.
3. In considering requests for review, the Review Committee shall either:
 - a) affirm the decision where it agrees

with the decision of the Casework Committee and with the ground given for the decision, or

- b) affirm the decision where it agrees with the decision of the Casework Committee but disagrees with the ground given for the decision⁴, or
- c) not affirm the decision but make a

recommendation to Plenary where it disagrees with the decision of the Casework Committee and considers that the Commission should conduct an enquiry or should grant 'assistance' pursuant to sections 9(1)(b) or 10 of the Act, respectively, as the case may be.

⁴ *In which event the Review Committee shall affirm the decision but substitute another ground for the decision.*

appendix three

Human Rights Commission and Amnesty International (Irish Section) in association with the National Consultative Committee on Racism and Interculturalism

Combating racism and promoting equality through legislation

Saturday, 27th March 2004. Trinity College, Dublin.

TIME	THEME	SPEAKERS
9.30-11.15am	<p>Session Chairperson: Dr Maurice Manning, President, Irish Human Rights Commission</p> <p><i>Campaigning for legislative change</i></p> <p><i>The European Union's Race Equality Directive and Proposed Framework Decision</i></p> <p><i>Too Firm to be Fair: Equality, Human Rights and the Management of Immigration and Asylum</i></p> <p>Q&A</p>	<p>Imran Khan, Imran Khan and Partners, UK, lawyer in the Stephen Laurence case</p> <p>Barbara Nolan, Anti-Discrimination Unit, EU Commission</p> <p>Colin Harvey, Prof. of Constitutional and Human Rights Law, University of Leeds</p>
11.15-11.30am	Coffee & Tea	
11.30am-1.00pm	<p>Session Chairperson: Seán Love, Director, Amnesty International (Irish Section)</p> <p><i>Using the law to effect social change</i></p> <p><i>Ireland's implementation of the Race Directive</i></p> <p><i>The Northern Ireland experience of Section 75 – statutory duty provision</i></p> <p>Q&A</p>	<p>Rhon Reynolds, Assistant Director of the 1990 Trust</p> <p>Tanya Ward, Senior Policy & Research Officer, Irish Council for Civil Liberties and member of the Equality Coalition</p> <p>Tansy Hutchinson, Research and Development Officer at the Northern Ireland Council for Ethnic Minorities</p>
1.00 – 2.15pm	Lunch	
2.00- 3.15pm	<p>Session Chairperson: Anastasia Crickley, Chairperson, NCCRI</p> <p><i>Responding effectively to racist incidents</i></p> <p><i>Punishing Racially Aggravated Crime – the UK Experience</i></p> <p><i>Punishing Racially Aggravated Crime – the Experience in Ireland</i></p>	<p>Philip Watt, Director NCCRI</p> <p>Sheila Rogers, Commission for Racial Equality, UK</p> <p>Donncha O'Connell, Law Faculty, NUI Galway</p>
	Q&A	
3.15pm	Concluding remarks Michael Farrell , solicitor and Human Rights Commissioner	
3.30pm	Close	

appendix four

Human Rights Commission and the National Consultative Committee on Racism and Interculturalism

Information Seminar on the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

Monday 22 November 2004, Jury's Inn, Parnell Street, Dublin 1

TIME	THEME	SPEAKERS
9.00am	Registration	Dr. Maurice Manning , President, Human Rights Commission Anastasia Crickley , Chairperson, NCCRI and Chair of Seminar Natalie Prouvez , Secretary to the CERD Committee Martin O'Brien
9.30am	Welcome	
9.40am	Introduction	
9.50am	Engaging Effectively with the CERD Process	
10.20am	Influencing the CERD Process – the NI Experience	
10.45am	Coffee & Tea	
11.15am	Q&A Session	Philip Watt , Director, NCCRI and Chair of Session
12.15pm	Concluding Remarks	Alpha Connelly , Chief Executive, IHRC
12.30pm	Close	

appendix five

Human Rights Commission Public Consultation Meeting in Cork

Jury's Hotel, Western Road, Cork
on Thursday, 18th November, 2004 @ 6.30 p.m.

AGENDA:

Prof. Robert Daly – to give introductory remarks and to welcome panellists and public to meeting and to introduce the President of the Commission

Dr. Maurice Manning, Chair of the Meeting – to outline background to Commission, its powers and functions and its Strategic Plan.

Mr. Michael Farrell – to outline IRHC's work in relation to racism to date and future plans

Five panellists to respond –

- **Chrissie Sullivan**, Travellers Visibility Project
Traveller accommodation and use of Anti-Trespass Legislation;
- **Vitaliy Makhnanov**, NASC and Integrating Ireland
highlighting absence of leadership and instances of racism by politicians and in media;
- **Mariam Olusoji**, joint-chairperson NASC
Barriers, often procedural, facing asylum seekers especially in respect of direct provision, right to work and right to education;

- **Siobhán Mullally**, Faculty of Law UCC
the general legislative framework to address racism and reference to the intersection between gender and racism;

Open to public forum and Q&A.

The meeting is expected to address such questions as:

- Are the rights of those encountering racism sufficiently protected by legislation in Ireland?
- What strategies are needed to counter racism? Are there other/better ways in addition to legal measures to counter racism?
- What effective role can the Human Rights Commission play in strengthening the protections offered to individuals and communities vulnerable to racism?

8.30 p.m. Close of meeting

appendix six

Human Rights Commission Public Consultation Meeting in Limerick

Radisson SAS Hotel, Ennis Road, Limerick
on Thursday, 22nd April, 2004 @ 6.30 p.m.

The focus for discussion at this meeting will be:

GENDER AND RELATED HUMAN RIGHTS ISSUES

- The protection of women's rights under the Convention on the Elimination of Discrimination Against Women (CEDAW)
- Protection of individuals in vulnerable and marginalised situations (prostitution and trafficking)
- What effective role can the Human Rights Commission play in advancing and protecting rights in this area?

Chair: **Dr. Maurice Manning**, President of the Human Rights Commission; Speakers: Commissioners **Dr. Katherine Zappone**, **Suzanne Egan & Olive Braiden**, **Dr. Hanna**

Beate Schöpp-Schilling, Member of the UN CEDAW Committee, **Dr. Niamh Reilly**, University of Limerick

The Commission is interested in hearing *your* views on this aspect of its work programme.

If you wish to receive a copy of the Strategic Plan in advance of the meeting, please visit our website **www.ihrc.ie** or contact the Commission.

Human Rights Commission

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appendix seven

MEMORANDUM OF UNDERSTANDING BETWEEN THE IRISH HUMAN RIGHTS COMMISSION AND THE EQUALITY AUTHORITY

INTRODUCTION

Both the Equality Authority (“the Authority”) and the Irish Human Rights Commission (“the Commission”) are independent statutory bodies and as such both will have regard to their Board/Commission in implementing this agreement.

The Authority’s mandate is to work towards the elimination of discrimination and to promote equality of opportunity in the areas covered by the Employment Equality Acts 1998 and 2004 and the Equal Status Acts 2000 to 2004. The Employment Equality Acts 1998 and 2004 prohibit discrimination in the workplace. The Equal Status Acts 2000 to 2004 prohibit discrimination in the provision of goods and services, accommodation and educational establishments. Separate provision is made in relation to registered clubs. Both the employment equality legislation and the equal status legislation cover the nine grounds of gender, marital status, family status, age, disability, sexual orientation, race, religion and membership of the Traveller community. The functions and powers of the Authority also include the provision of information on the working of the Employment Equality Acts 1998 and 2004, the Equal Status Acts 2000 to 2004, the Maternity Protection Act 1994, the Adoptive Leave Act 1995 and the Parental Leave Act 1998, to monitor and review the Employment Equality Acts 1998 and 2004, the Equal Status Acts 2000 to 2004, the Maternity Protection Act 1994 and the Adoptive Leave Act 1995 and to make recommendations

to the Minister for Justice, Equality and Law Reform for change, to conduct equality reviews and action plans, to prepare Codes of Practice, to conduct inquiries, to provide legal assistance to claimants under the Employment Equality Acts 1998 and 2004 and the Equal Status Acts 2000 to 2004 at its discretion on a strategic basis, to take cases on its own initiative and to conduct research.

The Commission’s mandate is to promote and protect persons’ human rights as guaranteed to them by the Constitution and by international agreements to which the State is a party. Its functions are: to keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights; at the request of a Minister of the Government, to examine any legislative proposal and report its views to the Minister on any implications of such proposal for human rights; to consult with such national or international bodies or agencies having a knowledge or expertise in the field of human rights as it sees fit; either of its own volition or on being requested to do so by the Government, to make such recommendations to the Government as it deems appropriate in relation to the measures which it considers should be taken to strengthen, protect and uphold human rights in the State; to promote understanding and awareness of the importance of human rights in the State and, for these purposes, to undertake, sponsor or commission, or provide financial or other assistance for, research and educational activities; to conduct enquiries; to prepare and publish, in

such manner as it thinks fit, reports on any research undertaken, sponsored or commissioned or assisted by it or in relation to enquiries; to apply to the High Court or the Supreme Court to appear before the High or the Supreme Court as *amicus curiae* in proceedings before the Court that involve or are concerned with the human rights of any person and to appear as such an *amicus curiae* on foot of such liberty being granted; to participate in the Joint Committee with representatives of the Northern Ireland Human Rights Commission; to grant assistance to persons in connection with legal proceedings involving human rights issues; and to institute, at its discretion, proceedings in any court of competent jurisdiction for the purpose of obtaining relief of a declaratory or other nature in respect of any matter concerning the human rights of any person or class of persons.

PURPOSE OF THE MEMORANDUM OF UNDERSTANDING

Both the Authority and the Commission would wish, while retaining their respective independence, to avoid any unnecessary duplication of effort or expenditure of public moneys, to co-operate on joint initiatives as relevant, to identify areas of mutual concern and work together on these as appropriate, to co-ordinate their activities and to support one another as appropriate, contributing thereby to the effectiveness of both organisations and the achievement of their objectives. To these ends they have agreed this Memorandum of Understanding.

GENERAL PRINCIPLES OF CO-OPERATION

In their relationship with one another the two organisations will be guided by the following principles:

- the sharing of information;
- mutual consultation during planning processes;
- co-operation and joint work to make best use of powers and resources;
- the avoidance of unnecessary duplication of effort;
- the co-ordination of their activities to maximise impact;
- the fostering of a constructive working relationship;
- mutual support.

THE IMPLEMENTATION OF GENERAL PRINCIPLES OF CO-OPERATION

In particular, the organisations will:

- forward copies of all publications to the other organisation;
- consult with one another in the drafting of their respective strategic plans and their business plans;
- encourage interaction between staff engaged in cognate work;
- share expertise and learning in relation to the implementation of each other's powers and functions;
- identify common issues and agree the respective roles of each organisation in relation thereto;

- identify and agree matters for joint action;
- identify and agree matters for linked and mutually supportive action;
- pursue co-operation within the Joint Equality and Human Rights Forum and other relevant fora;
- consult with one another in developing and reviewing criteria for casework and wider strategic enforcement strategies;
- refer people to each other, as appropriate;
- support, as appropriate, the stance taken by the other organisation on an issue;
- attend functions hosted by the other organisation.

OVERSIGHT OF CO-OPERATION

The implementation of the general principles of

co-operation will be developed and overseen by:

- regular meetings of the chief executives of the two organisations;
- an annual meeting of the Chairperson of the Authority, the President of the Commission, and the chief executives of the two organisations;
- this memorandum of understanding will be reviewed by both organisations after a period of eighteen months.

Agreed by the Commission at its meetings on 28 October 2004 and 16 December 2004

Agreed by the Board of the Authority at its meeting on 18 November 2004

PRESS STATEMENT

28th APRIL 2004

JOINT COMMITTEE STATEMENT ON PROPOSED REFERENDUM

The Joint Committee of the two Human Rights Commissions on the island of Ireland met today to consider the proposal by the Irish Government to amend the provisions on citizenship in the Irish Constitution.

It concluded that the proposal does have implications for rights protected by that Constitution, including the rights of persons born in the island of Ireland as set in Article 2 of the Constitution. These implications are being addressed in detail by the Irish Human Rights Commission in observations being issued this week.

In so far as the Irish Government's proposal impacts on Article 2 of the Irish Constitution, which was amended in order to allow the Belfast (Good Friday) Agreement to come into force, the Joint Committee believes that the proposal ought to be considered in the manner indicated in paragraph 7 of the section of the Agreement dealing with Validation, Implementation and Review. That paragraph requires the two Governments to consult with parties in the Assembly if relevant legislation [such as the Irish Nationality and Citizenship Acts] requires amendment.

NOTES FOR EDITORS:

1. The Irish Human Rights Commission issued Preliminary Observations on the Proposed Referendum on Tuesday 27 April, and will be issuing a further document exploring the relevant issues in more detail within the next few days.
2. Paragraph 7 of the section of the Agreement dealing with Validation, Implementation and Review reads as follows:
"If difficulties arise which require remedial action across the range of institutions, or otherwise require amendment of the British-Irish Agreement or relevant legislation, the process of review will fall to the two Governments in consultation with the parties in the Assembly. Each Government will be responsible for action in its own jurisdiction."
3. Journalists can seek an interview on this statement with either the Senior Human Rights Awareness Officer of the Irish Human Rights Commission, Mary Ruddy (tel: 00 353 1 8589628 or (mobile) 00 353 87 6407765) or with the Chief Commissioner of the Northern Ireland Human Rights Commission, Professor Brice Dickson (tel: 028 [048 from the Republic] 9024 3987 or (mobile) 00 44 79 01853005).

appendix nine

STATEMENT TO THE 60TH SESSION OF THE UN HUMAN RIGHTS COMMISSION (ITEM 18B)

DELIVERED ON BEHALF OF THE IRISH HUMAN RIGHTS COMMISSION BY DR. ALPHA CONNELLY, CHIEF EXECUTIVE ON 14TH APRIL 2004

Chairperson,

It gives me great pleasure to address you today on behalf of the Irish Human Rights Commission. The Commission is a relatively new body and has only acquired staff and permanent premises within the last year. Nevertheless members of the Commission have been very active in pursuit of the wide-ranging mandate conferred on them.

A key development last year was the adoption by the Commission of a strategic plan. In this plan, the Commission identifies those areas of work on which it intends to focus over the next 3 years. The areas are (i) civil and political rights, in particular the administration of justice, (ii) economic, social and cultural rights, and (iii) what the Commission has called cross-cutting issues, that is, matters which do not fall exclusively into the traditional categories of civil and political rights on the one hand and economic, social and cultural rights on the other, but rather span both categories. In the cross-cutting area, the Commission has in particular targeted for its attention racism, gender and persons with disabilities.

With respect to the administration of justice, one of the challenges has been, as it is in other countries, to try to ensure a fair balance between the freedom of the individual and the public

interest in counter-terrorist measures. The Commission has been critical of the method of adoption and implementation in Ireland of a Framework Decision of the Council of the European Union taken in the aftermath of the terrorist attacks of 11 September 2001 in the U.S.A. The implementing legislation dealt with the rights of persons subject to transfer between criminal jurisdictions in the European Union and had the general effect of reducing judicial scrutiny of such transfers. The Commission voiced concern about the lack of effective systems of democratic scrutiny, the lack of transparency and the inadequate consideration of human rights standards in the process leading to such EU decisions. It also voiced concern that the Framework Decision was based on the questionable presumption that there is effective and equivalent protection of the rights of accused persons in all member States of the EU, whereas there are significant differences in the protection of these rights across the EU.

With respect to economic, social and cultural rights, the Commission has decided to undertake a major study, exploring the nature of these rights and a range of enforcement mechanisms that are appropriate to an Irish context and to lay the groundwork for the holding of a major international conference on economic, social and cultural rights in 2005. Many would argue that the

political climate in Ireland at present is not conducive to the furtherance of these rights. Certainly it is true that many officials and others involved in the formulation and execution of social and economic policies are not aware of the rights dimension to their work, and a heightening of the appreciation of the relevance of these rights is another significant challenge for the Commission.

The transition of Ireland from a country of emigration to one of immigration has been accompanied by the ugly face of racism; and to its shame, only in December 2000, did Ireland become party to the International Convention on the Elimination of All Forms of Racial Discrimination. Working with the Northern Ireland Human Rights Commission, the Commission prepared and, in September 2003, jointly published a User's Guide to the Convention. The purpose of the Guide is to help NGOs, black and ethnic minority groups, community organisations, pressure groups and others to use the CERD mechanisms in the fight against racism in both parts of Ireland. The Commission also intends to draw up its own report, distinct from that submitted by the Government on behalf of the State to the CERD Committee, on the extent to which Ireland is complying with its obligations under the Convention. Furthermore, the Commission has, together with the Irish Section of Amnesty International, held a seminar on racism and the media and an international conference on combating racism and promoting racial equality through legislation. It has also, together with the National Consultative Committee on Racism and Interculturalism, published a review of EU and international standards relating to migrant

workers, and has exhorted the Government to accede, on behalf of the State, to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

In the field of gender, the Commission has already started drafting a separate report to shadow the combined 4th and 5th reports submitted by the Government to the Committee on the Elimination of Discrimination against Women. It is also undertaking research on the law and practice relating to prostitution in Ireland.

With respect to persons with disabilities, a major piece of legislation dealing with the provision of services and the rights of these persons has been promised by the Government, and the Commission will be closely scrutinising the proposed legislation from a human rights perspective. The Commission has already commented on a separate piece of legislation dealing specifically with the education of persons with disabilities, and stated that there should be a right to services based on educational need and that the right should be enforceable by recourse to judicial remedies. The Commission is also honoured to have been entrusted with the co-ordination of the input of the European group of national human rights institutions into the drafting of an International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities.

This is but a brief description of some of the work of the Irish Human Rights Commission, but I hope it gives you an insight into human rights concerns in Ireland at the present time.

Finally, I cannot end without again mentioning the work of the Joint Committee of representatives of the Commission and of the Northern Ireland Human Rights Commission. The Committee owes its existence to an international agreement of 1998 between Ireland and the United Kingdom, colloquially known as the Belfast or Good Friday Agreement. It serves as a forum for consideration of human rights issues in the island of Ireland, and has been expressly mandated by the Agreement to consider the possibility of establishing a charter, open to signature by all democratic political

parties, reflecting and endorsing agreed measures for the protection of the fundamental rights of everyone living in the island of Ireland. Consideration of such a charter may prove to be one of the greatest challenges for the Commission; but there can be no doubt that if the island is finally to leave behind a long history of political violence, agreement on measures for the protection of the fundamental rights of everyone living on the island must be part of that journey.

Thank you for your attention.

appendix ten

Irish Human Rights Commission and Law Society of Ireland

ECHR Act Review and Human Rights in Committed Relationships

Saturday 16th October 2004

TIME	THEME	SPEAKERS
9.00am 9.30am	Registration Welcome	Dr. Maurice Manning , President, Human Rights Commission Geraldine Clarke , President of the Law Society of Ireland 2002-2003
MORNING 9.40am	ECHR Act in the courts Session Chairperson: Introductory Remarks The Right Honourable Sir Brian Kerr , Lord Chief Justice of Northern Ireland <i>Leadership in Human Rights Law, past and future</i> <i>Progress to date under the ECHR Act 2003</i> <i>Insights from the UK Human Rights Act 1998, 5 years on</i> Q&A	Mrs. Justice Susan Denham , Supreme Court Donncha O'Connell , National University of Ireland, Galway Baroness Helena Kennedy QC
11.00-11.20am 11.20am	Coffee ECHR Act and public services <i>A Practitioner's Perspective of the ECHR Act 2003</i> <i>Local Authorities and the UK Human Rights Act 1998</i> <i>Implications for Local Authorities of the ECHR Act 2003</i> Q&A	Ernest Cantillon , Solicitor Charlotte Kilroy , Barrister of Matrix Chambers London Dr. Padraic Kenna , National University of Ireland, Galway
1.00 – 2.15pm	Lunch	
AFTERNOON 2.15pm	Human Rights in Committed Relationships Session Chairperson Dr. Katherine Zappone , Human Rights Commission <i>International Trends in Legal Recognition of Same-Sex Couples</i> <i>Ancillary Aspects of Cohabitation and Same Sex Unions</i> <i>New Models of Marriage and Partnership in Ireland</i> Q&A, Panel Discussion	Prof. Robert Wintemute , King's College London Dr. Ursula Kilkelly , University College Cork Prof. William Binchy, & Dr. Katherine Zappone , Human Rights Commission
4.15pm	Close	

appendix eleven

SPEECHES AND PRESENTATIONS IN 2004

PRESIDENT

22 nd & 23 rd January 2004	Chaired Session at Conference “Towards the Abolition of the Death Penalty” organised by Centre Culturel Irlandais & Irish Human Rights Centre, NUI Galway, Paris, France
18 th February 2004	“National Human Rights Institutions – Role and Relevance” University College, Cork
23 rd February 2004	Launch of <i>Sanctuary in Ireland</i> Institute of Public Administration, Dublin
27 th February 2004	Keynote speaker at 2 nd Annual Student Human Rights Conference University College, Dublin
19 th March 2004	Response to Professor Chris McCrudden, “Buying Social Justice – The Role of Law” at the Annual Distinguished Lecturer in Law in Law Faculty, NUI Galway
27 th March 2004	Chaired Session at Conference, “Combating racism and promoting equality through legislation” Irish Human Rights Commission and Amnesty International (Irish Section), Trinity College, Dublin
5 th April 2004	Launch of <i>Safeguarding the Rights of Migrant Workers</i> Joint Publication of Irish Human Rights Commission with National Consultative Committee on Racism and Interculturalism, Shelborne Hotel, Dublin
22 nd April 2004	Chaired Public Consultation on <i>Gender and Related Human Rights Issues</i> , Limerick
23 rd April 2004	Launch of CEDAW Shadow Report of Women’s Human Rights Project, Dublin
26 th April 2004	Chaired Session at Rehab Roundtable <i>No Treaty About Us Without Us – Perspectives on the Way Ahead</i> , Dublin
27 th April 2004	Keynote Speaker at Seminar on Advocacy organised by People with Disabilities in Ireland at Great Southern Hotel, Dublin
11 th May 2004	Keynote Speaker at Seminar on Advocacy organised by People with Disabilities in Ireland at Greenhills Hotel, Limerick

24 th May 2004	Keynote Speaker at EU Presidency Conference on <i>Violence Against Women – An Issue for Human Rights</i> Dublin Castle, Dublin
26 th June 2004	Guest Speaker at Conference <i>Encountering “The Other”</i> at Magee College, University of Ulster, Derry
1 st October 2004	“A Charter of Rights for Island of Ireland” at Seminar in University College, Cork
4 th October 2004	Lecture on the role of the Human Rights Commission at the Law Society of Ireland, Dublin
8 th October 2004	Chair of “Celebration of the ECHR Act: Challenges & Possibilities” organised by Independent Law Centres Network at Wynn’s Hotel, Dublin
25 th November 2004	Rapporteur on Working Session No. 1, <i>Recent Developments of the System of Human Rights Protection within the Council of Europe</i> at the Third Round Table of National Human Rights Institutions Berlin, Germany

CHIEF EXECUTIVE

15 th February 2004	“Personal Reflections on the Relationship between NGOs and National Human Rights Institutions”, paper delivered to the 5 th Regional Roundtable Meeting with members of NGOs, part of a Council of Europe/ European Commission joint initiative with Turkey in the area of human rights and democratisation, Adana, Turkey
11 th April 2004	“A personal view of the Interaction of Non-Governmental Organisations and National Human Rights Institutions in the Promotion and Protection of Human Rights”, paper delivered to the 7 th Roundtable meeting with Chairpersons of Turkish Human Rights Councils, Bolu, Turkey
14 th April 2004	Statement to the 60 th Session of the UN Human Rights Commission, delivered on behalf of the Irish Human Rights Commission
22 nd April 2004	Presentation to the Board of the Equality Authority on the incorporation of the European Convention on Human Rights into Irish Law

9 th May 2004	“Non-Governmental Organisations, National Human Rights Institutions and the European Convention on Human Rights”, paper delivered to the 6 th Roundtable for members of NGOs, Gaziantep, Turkey
31 st May 2004	Presentation explaining the forthcoming referendum on citizenship, Pavée Point, Dublin
9 th October 2004	“Protection Against Unwarranted Surveillance and Interception of Communications: A Human Rights Perspective”, presentation to the Law Society of Ireland’s Conference on Protecting Privacy, Dublin
29 th November 2004	“The Irish Human Rights Commission: From Theory to Practice”, presentation to an in-house lunchtime seminar at the Swiss Department of Foreign Affairs, Bern, Switzerland
1 st December 2004	“The Irish Human Rights Commission: The International Dimension”, paper delivered to the annual meeting of the Chairs and Chief Executives of the Joint Equality and Human Rights Forum, London, England
9 th December 2004	Presentation to the Refugee Appeals Tribunal on the functions and work of the Human Rights Commission
15 th December 2004	Presentation at a high-level panel discussion on “The Proposed EU Human Rights Agency: An opportunity for a Coherent European Human Rights Policy”, organised by the Centre, Brussels, Belgium

SENIOR CASEWORKER

5 th March 2004	“Inquiries within a wider Functional Strategy”, presentation made to the Conference of Network of Independent Specialised Bodies on <i>Strategic Enforcement and the ‘Race’ Directive</i> , Dublin
25 th September 2004	“Implications of the right to respect for private and family life under Article 8 of the European Convention on Human Rights for persons with a disability in Ireland”, speech delivered at <i>Human Rights and Disability Discrimination – Exploring the Value Added by the ECHR and other Sources of European Law</i> , conference hosted jointly by the Disability Law and Policy Research Unit, Faculty of Law, NUI Galway and The Equality Authority, Galway

4th November 2004 “Inquiry Strategies”, presentation to the Legal Section of the Equality Authority

SENIOR LEGISLATION AND POLICY REVIEW OFFICER

27th February 2004 Conducted Workshop on “Careers in Human Rights” at 2nd Annual Human Rights Conference, University College Dublin, Dublin

17th November 2004 Seminar on Garda Reform in NUI Galway, Galway

ASSISTANT LEGISLATION AND POLICY REVIEW OFFICER

28th September 2004 Speech on the role of the Irish Human Rights Commission at information day “Rights of Migrant Workers”, organised by the Killarney Citizen’s Information Centre, Killarney

15th -19th November 2004 Participated in and presented paper to Roundtable on national human rights institutions and National Machineries for the Advancement of Women, Ouarazazate, Morocco

appendix twelve

LIST OF PUBLICATIONS IN 2004

REPORTS:

Annual Report 2003 (2004)

SUBMISSIONS/OBSERVATIONS:

- *Observations on the Scheme of the Criminal Justice Bill 2003 (January 2004)*

- *Preliminary Observations of the Human Rights Commission on the Immigration Bill 2004 (February 2004)*

- *Observations on the Commissions of Investigation Bill 2003 (February 2004)*

- *Observations on the Garda Bill 2004 (February 2004)*

- *Comments on the Criminal Justice (Terrorist Offences Bill) 2003 (March 2004)*

- *Travellers as an ethnic minority under the Convention on the Elimination of Racial Discrimination (March 2004)*

- *Response to Law Society on Personal Injuries Assessment Board Act 2003 (April 2004)*

- *Observations on the Proposed Referendum on Citizenship and on the 27th Amendment to the Constitution Bill 2004 (May 2004)*

- *Observations on Equality Bill 2004 (June 2004)*

- *Observations on Transfer of Execution of Sentences Bill 2003 (June 2004)*

- *Observations on European Arrest Warrants Bill (June 2004)*

- *Observations on the Draft Irish Nationality & Citizenship Bill (August 2004)*

- *The Treatment of Persons Deprived of Their Liberty in Ireland: Observations on the Third Report of the European Committee for the Prevention of Torture on their Visit to Ireland in February 2002 (October 2004)*

- *Observations on the Disability Bill 2004 (November 2004)*

JOINT PUBLICATIONS:

- *Safeguarding the Rights of Migrant Workers and their Families, A review of EU and International Human Rights Standards: Implications for Policy in Ireland.*

Joint Publication by the National Consultative Committee on Racism and Interculturalism and the Irish Human Rights Commission (April 2004)