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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 9 OF THE CONVENTION**

**Comments by the Government of Ireland to the concluding observations  
of the Committee on the Elimination of Racial Discrimination \* \*\***

[15 June 2006]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\* Annexes to the report may be consulted in the secretariat's files.

### **ADDITIONAL REPORT OF IRELAND**

1. In this document the Government of Ireland has set out the latest position in respect of the recommendations in the Concluding Observations of the United Nations Committee on the Elimination of All Forms of Racial Discrimination (UNCERD) adopted following its consideration of Ireland's initial and second and periodic report at its 66<sup>th</sup> session in March, 2005.
2. The document is intended to assist the UNCERD Follow-up Coordinator in the work of monitoring the implementation of the recommendations in the Concluding Observations.
3. Ireland ratified the UNCERD on 29 December, 2000 and the Convention entered into force here on 28 January, 2001. Ireland was one of the countries that opted for Article 14 which allows a right of individual petition to the United Nations, all local remedies having been exhausted. Under Article 9 of the UNCERD Ireland, like all other States parties, undertakes to submit to the UNCERD Committee a report on the legislative, judicial, administrative and other measures which have been adopted to give effect to the provisions of the Convention. Ireland submitted its first such report in March, 2004.
4. The UNCERD Committee's Concluding Observations on Ireland's report follow -on from a very positive dialogue which the State Party, led by Mr. Frank Fahey T.D., Minister of State at the Department of Justice, Equality and Law Reform, had with the UNCERD Committee in Geneva on 2<sup>nd</sup> and 3<sup>rd</sup> March, 2005.
5. In the course of the dialogue the Committee welcomed the wide-ranging consultations with civil society groups in the preparation of Ireland's National Report and noted the positive working relations that exist between Government, independent national bodies established in the human rights and anti-discrimination area and civil society groups. The Committee remarked positively that Ireland's National Report included a section outlining the views of NGO's on the National Report.
6. The NGO community played an active part in the dialogue with UNCERD. A total of 8 shadow reports were submitted on Ireland's National report and the NGO groups were well represented in Geneva. The Government values the input of the NGO sector in the UNCERD process and also welcomes their involvement in the follow-up process.
7. The UNCERD Committee in its Concluding Observations welcomed, in particular, the launch of the National Action Plan Against Racism; the establishment of several independent institutions with competence in the field of human rights and racial discrimination; Ireland's comprehensive legislative framework in the anti-discrimination area; the decision to include a question on ethnicity in the next census; the fact that the State has made a declaration under Article 14 of the CERD recognising the competence of the Committee to receive and consider individual communications and the specific initiatives taken with regard to the Traveller Community, including the National Strategy for Traveller Accommodation and the Traveller Health Strategy.

8. The UNCERD Committee also expressed a number of concerns and made a range of recommendations in its Concluding Observations. The current position in respect of these recommendations is addressed in further detail in this report.

9. The Irish Government is committed to working closely with the UNCERD Committee and secretariat on the issues raised by the Committee and Ireland's further implementation of the UNCERD Convention.

### *Changing demographics*

10. Ireland is now a country of great diversity. The demographic composition of the State has changed significantly in a relatively short period of time. The 2002 census recorded the population at 3.9 million. In 2005, the CSO estimated the figure at over 4 million - the highest figure since 1871; if current fertility, mortality and migration trends continue it will surpass 5 million in the next 15 years. Some estimates are that by the year 2030 our foreign national population could be almost one million, or 18%. The CSO Statistical yearbook of Ireland (2005) shows that currently foreign nationals make up approx. 10 per cent of the population- this is the 8th highest of the OECD 23 member states. Nationals from well over 100 countries are now working in Ireland and between 1999 and 2005 the number of non nationals working here has risen to about 8% of the total workforce.

11. The CSO predicts that for the period up to 2011 net annual migration will be in the region of 100,000 to 150,000 depending on the level of economic growth. Irish society has gone through quite dramatic demographic changes in a relatively short space of time.

12. The 2006 census include a question on ethnicity for the first time and this should provide a further insight into the make-up of our society. Preliminary results will be available in April\May 2007.

### *National Action Plan Against Racism*

13. Perhaps the most significant recent policy development in the anti-racism/diversity area has been the launch of the National Action Plan Against Racism (NPAR) in January, 2005. The publication of the Plan is in fulfilment of commitments given at the World Conference against racism in Durban 2001 where the idea and the commitment to develop a Plan originate from.

14. The Plan provides strategic direction to combat racism and to promote the development of a more inclusive, intercultural society in Ireland. The development of the Plan was preceded by a 12 month consultation process involving a wide-range of stakeholders, including Government, the social partners and civil society.

15. The Plan will be the key policy instrument in the promotion of cultural diversity in Ireland. The whole of system approach we adopt will see the development of a range of policies and their co-ordinated implementation across the public administration. The Plan aims to focus on five key areas for action:

**Protection** – Ensuring effective protection and redress against racism

**Inclusion** – Promoting economic and social inclusion

**Provision** – Ensuring public services make reasonable accommodation of diversity

**Recognition** - Recognising and raising awareness and understanding of cultural and ethnic diversity

**Participation** – Ensuring full participation of minority ethnic groups

16. The Plan contains approximately 240 action items spread across the five pillars. A Strategic Monitoring Group has been established by the Minister for Justice, Equality and Law Reform to oversee implementation of the NPAR measures. This Group is chaired by Ms. Lucy Gaffney and includes representatives of the social partners, NGOs and Government. A network of Liaison Officers in Government Departments has been established and a wide range of projects are underway. The Strategic Monitoring Group has established three working groups of its members based on Pillars of the Plan and each group has brought in further expertise as required thereby directly involving people from minority ethnic backgrounds in policy implementation in specific projects.

17. The following is a flavour of some of the areas which the Strategic Monitoring Group has focused on:

- Working with the NCCA, funding has been allocated to kick start initiatives in relation to training for the primary school sector to support the roll-out of intercultural guidelines for the State's 23,000 primary school teachers.
- Anti-racist and diversity Plans in towns and cities: a template for the development of these Plans has been prepared. Galway city is operating such a plan. Applications from Roscommon county council, Dublin Inner City Partnership, Fingal County Council, Louth County Council have been approved and the development of their plans has started.
- Working with the Gardaí to develop a number of initiatives including encouraging recruitment of ethnic minorities (a seminar and workshop for persons from ethnic minority backgrounds interested in joining the Gardaí was organised for the 6th October and 11th October respectively 2005), greater reporting of racist incidents, linkages with the ARD Plans to bring together a range of agencies at local level to combat racist incidents..
- Commissioned research in to racism and the criminal law which is been carried out by the Law School, University of Limerick and due to be completed mid 2006.
- Grant Scheme in the Sports and Recreation area (€75,000 in grants disbursed). In addition a Grant Scheme in the sum of €250,000 was undertaken in December 2004 with the aim of supporting projects to underpin the objectives of the Plan and to promote the launch of the plan.
- 2005 was the sixth year of the Anti-Racist Workplace Week. The purpose of the week is to raise awareness of the need to combat racism in organisations and promote support for the accommodation of diversity in the workplace. The week is organised by the Equality Authority in close partnership with this Department, NPAR steering group, IBEC, ICTU, the Construction Industry Federation, the Small Firms Association,

Chambers of Commerce of Ireland and the Irish Farmers Association. The steering group gave €50,000 to the development of the week.

**Update in respect of the concerns and recommendations in the Concluding Observations of the UNCERD Committee on Ireland's initial and second periodic report<sup>1</sup>**

18. The Committee regrets that the State party has not yet incorporated the Convention into the domestic legal order, particularly in light of the fact that the State party has incorporated other international instruments into domestic law. (Article 2).

**The Committee invites the State party to envisage incorporating the Convention into its domestic legal order.**

19. As the Committee has noted from paragraph 101 of Ireland's First National Report and as further discussed at the dialogue in Geneva in March, 2004, Ireland in acceding to the Covenant, has undertaken a continuing obligation to examine and improve where possible the provisions of domestic law in the light of the standard laid down in the Covenant. Ireland is satisfied that the rights and protections afforded by domestic legislation, and in particular the Employment Equality Act 1998, the Equal Status Act 2000, the prohibition of Incitement to Hatred Act 1989 and the Offences against the State Act 1939 are in substance those rights and protections afforded by the Convention and that accordingly in substance if not in form Irish citizens do enjoy the protection of the Convention.

20. The Committee notes that the State party made a declaration on article 4 of the Convention. The Committee believes that no compelling reasons exist impeding the withdrawal of this declaration. (Article 2)

**Recalling its General Recommendation XV, the Committee recommends to the State party that it reconsider its position, and encourages it to withdraw the declaration made to article 4 of the Convention.**

21. The Department of Justice, Equality and Law Reform in co-operation with the National Action Plan Against Racism has commissioned research in to racism and the criminal law. The primary focus of this research is in assessing the effectiveness of the current domestic legislation to combat crime that is motivated by racism. In particular the research will consider whether the concepts of 'race hate crimes' and 'race aggravated offences' should be considered for adoption into Irish legislation. The research will also have regard to Article 4 of the UNCERD and to the concluding observations of the UNCERD Committee's on Ireland's first report (see recommendation 11 below also).

22. The research is being carried out by National University of Ireland, Limerick and a report is expected in early Autumn. The issue of our declaration under article 4 of UNCERD will be looked at in light of the findings and recommendations of the research report.

23. While noting the continuous efforts undertaken by the State party to combat racial discrimination and related intolerance, the Committee remains concerned that racist and

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<sup>1</sup> Please note that the item numbers used in the report correspond to the relevant recommendation number in the UNCERD Concluding Observations

xenophobic incidents and discriminatory attitudes towards ethnic minorities are still encountered in the country. (Article 2)

24. The Committee encourages the State party to continue to combat prejudice and xenophobic stereotyping, especially in the media, and fight prejudice and discriminatory attitudes.

**In this context, the Committee recommends that the State party introduce in its criminal law a provision that committing an offence with a racist motivation or aim constitutes an aggravating circumstance allowing for a more severe punishment.**

25. The Department of Justice, Equality and Law Reform and the National Action Plan Against Racism have commissioned research into racism and the criminal law. The purpose of the research is to assist the Minister and the Steering Group of the National Action Plan Against Racism in assessing the effectiveness of the current legislation to combat crime that is motivated by racism. These crimes can range from abusive and threatening behaviour through to assaults and incitement to hatred. In particular the research will consider whether the concepts of 'race hate crimes' and 'race aggravated offences' should be considered for adoption into Irish legislation. The research and report of findings will include:

- i. review literature and best international practice
- ii. review and assessment of current Irish legislation in this area
- iii. review and assessment of recent (2000-present) available reports and cases (including trends) focussing on those relevant to racism within the Irish criminal justice system
- iv. Explore the efficacy of introducing the concept of hate crimes and race aggravated sentencing issues in the Irish context.
- v. Specific recommendations to the Department of Justice, Equality and Law Reform.

26. The research will serve to assist and supplement the ongoing review of the Prohibition of Incitement to Hatred Act, 1989 and in looking at the issue of aggravating sentencing will provide an opportunity for the Government to address this recommendation of the UNCERD Committee.

27. A steering Group has been established to oversee the research work and is comprised of representatives of Department of Justice, Equality and Law Reform, the Equality Authority, Institute of Public Administration, An Garda Síochána, National Consultative Committee on Racism and Interculturalism (NCCRI), Pavee Point and the Gay and Lesbian Network (GLEN).

28. By and large our media have reported on issues of race and ethnicity in a balanced manner. The media has a key role to play in raising awareness of diversity and maintaining a calm reasoned debate on this issue of key national importance while avoiding descent into name calling and stereotypes. The National Action Plan Against Racism identifies as a key priority ensuring effective complaints mechanisms in both the broadcasting and Press sectors. A number of measures are also identified including

- measures to encourage more programming in Ireland focussing on cultural diversity in Ireland, including joint ventures between broadcasters,
- positive actions to encourage the employment of people from cultural and ethnic minorities at all levels within the media, consistent with the requirements of employment and equality legislation,
- a range of further positive measures with the media, building on initiatives such as the Media and Multicultural Awards (MAMA) which are part sponsored by the National Action Plan Against Racism.

29. In the context of combating prejudice and xenophobic stereotyping in the media, the National Action Plan Against Racism held a media roundtable on 14 November, 2005. The event was attended by representatives of the print and broadcast media and of the NPAR Strategic Monitoring Group. Case studies were presented by representatives of the Travelling Community and ethnic minorities. It is proposed to have further engagement with the media over the lifetime of the NPAR.

30. In March, 2006 the NPAR launched a radio ad campaign broadcast on national and local radio stations to coincide with Intercultural Week. The advertisements emphasise the normality of diversity in Ireland today.

31. It is evident that many media organisations both local and national are responding to the specific needs of ethnic minorities and examples of targeted programming and special supplements in print media exist across the range of media. For example, the national broadcaster RTE hosts a programme Spectrum on radio (RTE 1) which provides a forum for Ireland's ethnic minority to debate issues affecting them and to celebrate the more diverse Ireland.

32. A similar style of programme "the wide angle" is aired on Newstalk 106, a Dublin based local radio station. Inishowen Community Radio, Co. Donegal broadcasts "China Times". The programme is broadcast in both English and Chinese and targets the large Chinese community on both sides of the border.

33. Since March 2005 Ethnic Limerick has been a weekly page in the Limerick Leader. It aims to represent the new nationalities in Limerick and gives them a platform to discuss various issues.

34. Polski Herald was launched on 11 November 2005, Polish Independence Day, and is the first publication co-produced by Irish and Polish journalists, with the aim of engaging readers from both communities. Published as a weekly supplement in the national Evening Herald, it aims to provide Ireland's large Polish population with news from Poland as well as pieces on news within Ireland of particular interest to them. It also provides informative pieces on Irish culture.

35. In June, 2005 the NPAR took out a supplement with the Sunday Tribune newspaper to highlight the NPAR itself and diversity related projects underway (it included a piece on the role of UNCERD). In November 2006 the NPAR commissioned a supplement in the Sunday Business Post newspaper targeted at business and highlighting the value of

diversity in the workplace. The supplement was timed to coincide with and support the messages of Anti-Racist Work Place Week.

36. This is just a small sample of a range of developments in the broadcast and print media targeted at the new Irish communities. A focus of the NPAR engagement with the media will be the importance of sensitivity in the use of language when dealing with the issue of diversity and encouraging media organisations to bring journalist/broadcasters from cultural and ethnic minorities into mainstream Irish broadcasting.

37. The NPAR provided €50,000 towards the Metro Eireann Media and Multicultural (MAMA) Awards in 2006. These awards recognise and celebrate outstanding contributions of individuals and groups to creating cross-cultural understanding and cooperation in Ireland. For the first time in 2006 an NPAR Category award was made, the winners being the National Council for Curriculum and Assessment (NCCA) for their work on the Intercultural Guidelines for Primary Schools.

38. The NPAR Steering Group is exploring with MAMA the possibility of a more comprehensive cultural diversity awards scheme.  
(See also under recommendation 16 in relation to developments in relation to An Garda Síochána).

39. While noting the existence, in the area of the application of the Convention, of a diversified NGO community in Ireland, and welcoming in particular the establishment by the State party of several independent institutions and judicial bodies in the field of human rights and non-discrimination, as referred to in paragraph 4 above, the Committee wishes to underscore the importance of providing adequate resources to these institutions, in order to enable them to efficiently and effectively exercise their duties and functions. (Article 2)

**The Committee recommends that the State party provide the newly established institutions in the field of human rights and non-discrimination with adequate funding and resources to enable them to exercise the full range of their statutory functions, and also support the NGO community.**

40. The Government is committed to ensuring that institutions in the field of human rights are adequately resourced to meet their obligations within normal budgetary requirements.

41. The Human Rights Commission was established under the Human Rights Commission Acts, 2000 and 2001 in line with the terms of the 1998 Good Friday Agreement on Northern Ireland. Under those Acts, the Commission is a fully independent national human rights institution and is responsible for its own procedures and the conduct of its operations.

42. Under equality legislation, there are two independent bodies with statutory roles: the Equality Authority and the Equality Tribunal. The Equality Authority has the role of working towards the elimination of discrimination, and provides information and advice to any person who feels that he/she has been discriminated against on any of the nine grounds covered in the equality legislation, whether in an employment or non-employment area.

43. The Equality Tribunal is the impartial forum to hear or mediate complaints of alleged discrimination under equality legislation. It is independent and quasi-judicial and its decisions and mediated settlements are legally binding. The Director of the Equality Tribunal has the power under the Equality legislation to refer a case for mediation or to investigate and decide such a case.

44. The National Consultative Committee on Racism and Interculturalism (NCCRI) is an independent body established by the Government in 1998 for the purpose of providing expert advice and to develop initiatives to combat racism and to work towards a more inclusive and intercultural society in Ireland. The NCCRI works closely with Government, private and NGO bodies. Details of budget allocations in 2006 for these bodies are set out in the Table below:

<b>Organisation</b>	<b>Allocation in 2005</b>	<b>Allocation in 2006</b>
Irish Human Rights Commission (Grant-in-aid)	€1,894,000	€1,959,000
Equality Authority (Grant-in-aid)	€5,451,000	€5,531,000
Equality Tribunal	€1,970,000	€2,046,000
National Action Plan Against Racism	€1,000,000	€1,001,000
NCCRI	€370,000	€ 478,000

***Request For Tender: Development of a Conceptual Framework and Principles to Guide Core funding for organisations representing minority ethnic groups***

45. The purpose of this Request for Tender (RFT) is to assist the Minister for Justice, Equality & Law Reform and the Steering Group of the National Action Plan Against Racism in developing a conceptual framework and principles to underpin funding policy for organisations who represent minority ethnic groups. In this relatively new, fast developing and complex area it is considered that a review of the current situation is required in order to ensure that a strategic approach is taken to funding issues and to ensure that funding strategy is in line with policy in relevant areas.

46. The research will involve the following specific tasks:

- A. A literature review of best practice and current international context.
- B. Structured interviews with key stakeholders, including minority ethnic led organisations, Government and relevant NGOs, specialised and expert bodies and agencies.
- C. To map and compile a list of the key groups which come within the scope of this study.

- D. A mapping of current sources of funding in Ireland where groups draw their funding from.
- E. To assess and identify existing funding supports, both Governmental and non governmental.
- F. Assessment of whether any new funding processes are required and how this impacts on the roles of both the NCCRI and Equality Authority.
- G. To make specific recommendations to the relevant Departments as to the best strategic approach to adopt in each sector.

47. The Committee is concerned at the possible implications of the policy of dispersal and direct provision for asylum seekers. (Article 3)

**The Committee encourages the State party to take all necessary steps with a view to avoiding negative consequences for individual asylum seekers, and to adopt measures promoting their full participation in society.**

48. The Reception and Integration Agency (RIA) operates on a cross-departmental basis under the aegis of the Department of Justice, Equality and Law Reform. The Agency is responsible, inter-alia, for accommodating people seeking asylum and refugees and coordinating the provision of services - e.g. health, welfare and education - to these groups.

49. Direct provision and dispersal is a key policy pillar of the asylum process and is very much in line with arrangements that exist in other EU member States. It needs to be seen in the context where the numbers of applications and asylum applications processing times have fallen considerably over the last number of years due to the considerable investment by Government in the asylum process. Furthermore, asylum seekers are admitted to the State on temporary residence status pending the determination of their asylum application under an independent statutory process at first instance and appeal as provided for in the Refugee Act, 1996 (as amended). The Government's policy is to ensure that person's who have protection needs are identified as early as possible in order that they may avail of the status to which they are entitled.

50. The RIA is responsible for the accommodation of asylum seekers through the policy of direct provision. Direct provision is the means by which the State discharges its obligations to provide for the basic requirements of asylum seekers. For the most part, this represents a cashless system with the State assuming responsibility for providing suitable accommodation on a full board basis.

51. Direct provision was introduced on 10 April, 2000 and brought Ireland into line with best practice in other EU Member States of the European Union, including the United Kingdom. It is widely accepted that a harmonised approach to asylum seekers is by far the best approach and the system of direct provision represents a fair and effective means of meeting the needs of this group.

52. The direct provision system seeks to ensure that the accommodation and ancillary services provided by the State meet the requirements of asylum seekers during the period in

which their requests for asylum are being processed. In addition, a direct provision allowance of €9.10 per adult and €9.60 per child was introduced some years ago and is paid by Community Welfare Officers (operating under the aegis of the Department of Social and Family Affairs) who also have the discretion to make once-off exceptional needs payments in special situations. The direct provision allowance seeks to reflect the value of the above-mentioned services to the asylum seeker.

53. The Reception and Integration Agency continues to work with the relevant service providers to ensure that a high standard of supports are made available in a sensitive, balanced and cost-effective way to all asylum seekers availing of direct provision accommodation. The Direct Provision scheme is a small part of the overall level of service provided by the State to asylum seekers.

54. Asylum seekers are entitled to access health services on the same basis as the indigenous population. Education for asylum seeking children, in the normal school going age range, is provided in the nearest convenient schools, primary or post-primary as appropriate. The education provided includes the teaching of English.

55. With regard to 'aged-out' minors the RIA recognises that this vulnerable group requires additional supports, and with this in mind, the following have been established:

- Funding has been accessed under EQUAL to provide supports for SCSA as they make the transition into Justice Accommodation. This will include the appointment of a coordinator and outreach workers, who will deliver and coordinate a number of strategies based on identified need;
- The RIA and the HSE have established regular meetings which facilitate the more effective planning for SCSA moving from HSE care to Justice Provision.

56. In relation to children within families, living in RIA accommodation an internal review of childcare facilities in asylum seeker accommodation centres, resulted in the RIA appointment of a new Director of Child and Family Services, seconded from the Health Service Executive. Among the initiatives established since 2005 are

- the development and implementation of a RIA Child Protection Policy based on the National Child Protection guidelines 'Children First' developed by the Dept. of Health and Children;
- the establishment of pre-school facilities in larger family orientated accommodation centres
- the establishment of indoor and outdoor play areas in accommodation centres;
- Improved linkages with a range of organisations providing services to vulnerable families.
- The development of infant feeding guidelines, in conjunction with the HSE.

57. Over the past number of years, the RIA has facilitated the development, throughout the country, of an extensive network of Support Groups for asylum seekers in Direct Provision. These voluntary groups are involved in a range of activities to befriend asylum seekers, to assist them to settle into local communities and to promote intercultural activities between the asylum seekers and the local community. Partial funding for projects carried out by these groups is available from a small grants scheme. A total of €70,000

was made available under this Scheme in 2004, benefiting over sixty projects. A total of €40,000 was made available under this Scheme in 2003, benefiting over sixty projects. Grants for 2005 totalled €170,000, involving 61 projects. €70,000 is also available in 2006 but no decision has yet been made on how many of the 74 applications received will receive funding.

58. When an asylum seeker has been given refugee status or leave to remain, the RIA help to co-ordinate integration services. For example, for those given leave to remain by reason of having an Irish Born Child, RIA is currently involved in 2 projects which will assist this group in obtaining and maintaining employment.

***Business in the Community project***

59. The first project is in partnership with The Gender Equality Unit of the NDP and Business in the Community. The NDP had an allocation of ½ million euro in their budget, and they are particularly interested in targeting female lone parents and couples with Irish born children with this money.

***Dormant Accounts project***

60. The project was advertised by writing directly to 36 area based partnership companies working with vulnerable immigrants to invite applications for funding. The closing date was 17th May 2006. €0.5 million has been allocated from the Dormant Accounts towards to this project.

61. For the purposes of this measure the target groups are defined as former asylum seekers who:

- Have been granted refugee status or;
- Have been granted leave to remain in the State or;

Persons who have been granted leave to remain on the basis of having an Irish born child.

62. The RIA is also responsible for the allocation of funding to Non Governmental Organisations for asylum seeker and refugee projects through the European Refugee Fund (almost €3million will be disbursed in co-financing projects in ERF cycle 2005/2007).

63. On a much broader front, an additional €5m has been allocated for integration-related activities. Detailed plans for expenditure in this area are been finalised but some of the projects will help asylum seekers who have been given refugee status or leave to remain.

64. Our Refugee determination procedures have recently been described by the previous UNHCR Representative to Ireland as a best practice model for other countries and she praised the quality and openness of the Irish Government's engagement with her office in developing asylum and refugee policy.

65. The Committee is concerned about reported instances of exploitation of foreign workers by some employers and of violations of labour regulations prohibiting discrimination. (Article 5)

**The Committee, recalling its General Recommendation XXX on discrimination against non-citizens, encourages the State party to ensure full practical implementation of legislation prohibiting discrimination in employment and in the labour market. In this context the State party could also consider reviewing the legislation governing work permits and envisage issuing work permits directly to employees.**

*Employment Permits Bill, 2005*

66. The Employment Permits Bill 2005 has passed through the Dail (lower chamber) and the Second Stage was completed in the Seanad (upper chamber) on 24 May.

67. The Employment Permits Bill 2005, which is likely to be enacted before the Summer recess, will place the existing employment permit arrangements on a statutory basis. It will provide enabling powers for the implementation of a more managed economic migration policy and provide migrant workers with new protections and greater mobility possibilities.

68. The permit which will be issued to the employee (on application by either employer or employee) will contain a statement of the rights and entitlements of the migrant worker including their remuneration and their right to change employers.

69. The Bill prohibits employers from either deducting recruitment expenses from remuneration or from retaining workers personal documents, including passports, driving licences etc. In addition, any employer who contravenes any of the provisions of the Bill is guilty of an offence - and may be liable for a fine of €5,000 up to €50,000 and/or imprisonment for period from 12 months to 5 years.

70. Ireland is one of the Member States of the European Union who have not imposed any restrictions on nationals of the 10 newest Member States in gaining access to the Irish labour market. A considerable number of nationals from these Member States are now living and working in Ireland. An indication of their numbers is set out at Appendix 1.

*The Labour Inspectorate*

71. The Labour Inspectorate of the Department of Enterprise, Trade and Employment is responsible for monitoring certain employment conditions for all categories of workers in Ireland, including immigrant workers. The Inspectorate operates without any differentiation with regard to worker nationality as statutory employment rights and protections apply to migrant workers in exactly the same manner as they do to other Irish workers.

72. For the avoidance of doubt Section 20 of the Protection of Employee's (Part-Time) Work Act, 2001 provides that all employee protection legislation on the Statute Book in Ireland applies to workers posted to work in Ireland in line with Directive 96/71/EC of the European Parliament and Council of 16 December 1996.

73. Section 20 of the 2001 Act also provides that all employee protection legislation applies to a person, irrespective of his or her nationality or place of residence, who has entered into a contract of employment that provides for his or her being employed in the State or who works in the State under a contract of employment. Thus all Employment

Rights Legislation applies to migrant workers engaged to work in Ireland under a contract of employment.

74. Labour Inspectors pursue allegations of worker mistreatment and when evidence of non-compliance with the relevant employment rights legislation is found, the Inspectorate seeks redress for the individual/s concerned and, if appropriate, a prosecution is initiated. Employers are required to maintain records in respect of such employees and these records, together with other substantiating evidence, for example, a statement from an employee, provide the essentials of a basis for legal proceedings. Failure to maintain adequate records by an employer is an offence.

75. It should be noted also, that in many cases, Employment Rights Legislation has provisions whereby workers who believe that they have been denied their entitlements, or otherwise unfairly treated, can, as an alternative to dealing with the Labour Inspectorate, take the matter before a Commissioner in the Rights Commissioner Service of the Labour Relations Commission.

#### *Staffing*

76. Since November 2005 the number of Labour Inspectors assigned and serving has been increased to thirty-one Officers. That increase in staffing represents almost a doubling of the number of Labour Inspectors in the last 18 months

#### *Mandate and Resourcing of the Labour Inspectorate*

77. The Department of Enterprise, Trade and Employment circulated a Discussion Document on the 'Mandate and Resourcing of the Labour Inspectorate' to the Social Partners in early 2005. That document was the basis for further consideration by the Employment Rights Compliance Group (ERCG). The ERCG, which is made up of representatives of the Social Partners, including the CIF and SIPTU, together with the Department of Enterprise, Trade and Employment, the Department of the Taoiseach and the Department of Finance, has completed its Report. The Report will inform the current National Partnership discussions. Some of the key proposals in the Report are:

- A streamlining of access to redress through the existing Employment Rights Bodies thus enabling individuals with the information and facility to more easily vindicate their employment rights and entitlements
- Greater emphasis on proper record keeping together with increased transparency regarding pay and the associated information provided to employees on payslips
- Organisational improvements in the service provided by the Employment Rights Compliance Section of the Department of Enterprise, Trade and Employment - including the Labour Inspectorate {including a regionalised structure}
- Major investment in Education and Information Dissemination on employment rights obligations and entitlements for both employers and employees.

#### *Partnership Talks*

78. The Social Partners, and the various Government Departments concerned, have been carefully considering a range of options that will underpin an enhanced employment rights

compliance regime. The staffing and resourcing of the Labour Inspectorate in the context of a possible new employment rights compliance model is just one feature of those considerations.

79. The discussions have also included reflection on the obligations and responsibilities applying to main contractors and their subcontractors. A consensus has already been established around the proposition that record keeping should be improved and that the information provided in Statements of Pay can be enhanced.

80. However, while considerable progress is being achieved on these and other matters, a definitive conclusion is still awaited. The necessary steps to implement the various commitments that may emerge from the discussions will be undertaken without delay once those conclusions are finalised.

### *Equality legislation*

81. The Employment Equality Act, 1998 provides further protections in the area of employment. This legislation prohibits both direct and indirect discrimination in the areas of employment on nine grounds; gender, marital status, family status, sexual orientation, religion, age, disability, race or membership of the Traveller community. There are also in place the necessary institutional structures, in the shape of the Equality Authority and the Equality Tribunal, to ensure effective implementation of this legislation and the Equal Status Act, 2000 (prohibiting discrimination in access to goods and services on the same nine grounds).

82. Further amendments to both these Acts were made in the Equality Act, 2004 which gives effect in domestic law to Ireland's obligations as a member of the European Union to implement Community initiatives provided for under Council Directives 2000/43/EC and 2000/78/EC, adopted under Article 13 of the EC Treaty, and Council Directive 2002/73/EC adopted under Article 141 of the treaty.

83. The Equality Authority report that the race ground is the largest category of casefiles under the Equality Acts primarily concerning migrant workers and involving cases that include working conditions, dismissal, equal pay, access to employment and harassment.

84. It is worth noting that in decision given by the Labour Court<sup>2</sup> in July, 2004 in relation to an unfair dismissal case<sup>3</sup>, The Court in its conclusions stated

“employers have a positive duty to ensure that all workers fully understand what is alleged against them, the gravity of the alleged misconduct and their right to mount a full defence including the

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<sup>2</sup> The Labour Court was established to provide a free, comprehensive service for the resolution of disputes about industrial relations, equality, organisation of working time, national minimum wage, part-time work and fixed-term work matters.

The Labour Court is not a court of law. It operates as an industrial relations tribunal hearing both sides in a case and then issuing a Recommendation (or Determination/Decision/Order, depending of the type of case) setting out its opinion on the dispute and the terms on which it should be settled.

The Labour Court is a court of last resort – cases should only be referred to the Court when all other efforts to resolve a dispute have failed.

<sup>3</sup> Case reference: ED/02/52 Determination No. 048; section 77 of the Employment Equality Act 1998. Campell Catering Catering Limited (represented by Management Support Services Ireland Limited) and Aderonke Rasaq (Represented by the Equality Authority).

right to representation. Special measures may be necessary in the case of non-national workers to ensure that this obligation is fulfilled and that the accused worker fully appreciated the gravity of the situation and is given appropriate facilities and guidance in making a defence.”

## **Engaging with the Corporate sector**

### ***Anti-Racist Workplace Week***

85. Anti-Racist Workplace Week (organised by the Equality Authority) is a key element of the National Action Plan Against Racism. The purpose of the week is to raise awareness of the need to combat racism in organisations and to promote support for the accommodation of diversity in the workplace. The NPAR contributed €50,000 to the Week in 2005 and will contribute the same amount in 2006. It is now in its seventh year and has attracted a wide range of partners all committed to making the workplace free from racism. The EU Commission has also funded the Week’s activities.

86. The Week has the support of the social partners, including employer/business representatives such as IBEC, Chambers of Commerce, the Construction Industry Federation, Small Firms Association as well as ICTU and farmer representative bodies.

### ***National Action Plan Against Racism***

87. The NPAR has also been active in engaging with issues in the Workplace. A breakfast briefing for senior business leaders on NPAR was organised by NPAR in 2005 and was addressed by Ms. Lucy Gaffney, Chair of the NPAR Steering Group in which she spoke on how the corporate sector can play their part in promoting diversity in their workforce. Other contributors included Pat Casey, Vice President, Training and Diversity, Dell Ireland, Tony Burnett, Founder, Performance through Inclusion and Niall Crowley, CEO of the Equality Authority.

88. Ms. Gaffney also addressed the Irish Management Institute Annual Conference in April 2006 on the theme of managing diversity in the workplace. The conference is attended by Chief executives and other senior business personnel.

89. The NPAR has recently begun to develop a number of proposals with both IBEC and ICTU. On the IBEC side these include Recruitment and induction programmes:

1. A business mentoring scheme to enable larger companies with a developed business case for diversity to pass on their approach and experience to smaller companies.
2. Customer awareness campaigns: recognising that a more diverse workplace implies a more diverse market. We want IBEC members to look at practical measure such as signage in different languages, more focus on particular cultural needs of different ethnic minorities.
3. Engagement with senior business leaders to promote the case for business diversity.

4. Awareness raising including the launch in March, 2006 of two new publications: "Diversity in the Workplace - a Guide for Shop Stewards" and "Congress Guidelines on Combating Racism and planning for diversity"
5. Training and
6. Participation in employer/employee representative/Trade Union bodies

90. The Committee regrets the absence of special detention facilities for asylum seekers whose request for asylum has been rejected and for undocumented migrants awaiting deportation. (Article 5)

**The Committee recommends to the State party to provide additional information in its next report on the conditions of detention of asylum seekers and undocumented migrants awaiting deportation.**

91. Section 5 of the Immigration Act 2000 as amended sets out the legal provisions in relation to the arrest and detention of non nationals with deportation orders for the purpose of ensuring their removal from the State. In practice, detention is used as a means of last resort to ensure compliance with the deportation decision where the person concerned has failed to comply with less coercive requirements such as reside at a particular address and report regularly to the authorities or where there is strong suspicion that the person intends absconding with a view to avoiding removal or has absconded and is located afterwards by the police. The legislation also limits detention to persons over the age of 18 years and for a maximum period of 56 days in aggregate. However, the Irish High Court has held in two recent cases, that detention may be renewed for further periods pending a fresh attempt at removal where the person has deliberately frustrated and prevented an earlier attempt by engaging in disruptive behaviour.

92. Ireland currently does not have any especially dedicated facilities for detaining such persons. However, the sparing use of detention combined with the relatively short period that persons are held means that the number of deportees detained at any particular time pending removal are low compared with the overall caseload of persons eligible for removals. Persons held on immigration related matters, including those with deportation orders are, unless the subject of a conviction, in general kept apart from convicted persons while in detention.

***Migrants refused leave to land:***

93. Upon making a decision to refuse leave to land, arrangements are then put in place for the removal of the individual concerned from the State. If a person is refused leave to land the immigration officer may arrest that person and detain him/her in a prescribed place (Section 5 of the Immigration act, 2003). Under the Immigration Act 2003 (Removal Places of Detention) Regulations 2005, Garda Stations and prisons are prescribed places of detention for the purposes of the Act. It is the case, therefore, that from time to time, individuals who have been refused permission to be in the State are detained in prison.

Normally, however, it is possible to return a person who has been refused leave to land on the next available flight later that day

94. Although prison accommodation is not ideal, it does provide a setting where all necessary facilities including emergency medical services are readily available. This would not be the case if the person were in 'open custody' or simply asked to wait overnight at an airport. It should be borne in mind also that since the purpose of such detention is to remove such persons from the State as soon as practicable, it is necessary to ensure that persons are detained in a location which is as near as possible to the port of entry .

### *Asylum Seekers*

95. The State is fully committed to continuing to meet its obligations under the 1951 Geneva Convention relating to the Status of Refugees and related 1967 Protocol. To this end the State has put in place one of the most enhanced and developed asylum determination processes in the EU comprising:

- An independent first instance process operated by the Office of the Refugee Applications Commissioner;
- An independent appeal considered by the Refugee Appeals Tribunal.
  
- A former UNHCR Representative in Ireland recently stated that "Ireland was now a model for new Members of the EU" in relation to our asylum process and that "we now have a system which in many respects is one of the best in Europe".

96. Detention of asylum seekers is not carried out on a systematic basis in Ireland and hence to date there has been no requirement for a standalone detention facility.

97. A person who is under 18 cannot be detained.

98. Detention is subject to a strict legislative framework setting out the limited circumstances under which detention can take place with regulations governing operation of detention.

99. The powers of detention of asylum seekers on specified grounds are clearly set out in section 9(8) of the Refugee Act, 1996, as amended. An Immigration Officer or a member of the Garda Síochána may only detain an applicant for refugee status in a prescribed place of detention on the following grounds:

Where there is reasonable suspicion that the applicant:

- a. Poses a threat to national security or public order in the State;
- b. Has committed a serious non-political crime outside the State;
- c. Has not made reasonable efforts to establish his or her true identity;
- d. Intends to avoid removal from the State in a situation where his application for asylum is transferred to another country which is a party to the Dublin Convention;
- e. Using an application for asylum as a means of circumventing the Common Travel Area arrangements between the State and Great Britain or Northern Ireland; or
- f. Without reasonable cause has destroyed his or her identity or travel documents or is in possession of forged identity documents. It is accepted that some genuine

refugees will have forged papers and it is not intended that any asylum seeker who arrives in the State, and freely admits that his or her documents are forged, should be detained. The provision has been qualified by the addition of "without reasonable cause" to clarify that the intention is not to detain such applicants.

100. In most cases there will be no question of detaining an applicant. However in the circumstances specified in the Refugee Act, 1996 an applicant can be detained, subject to the immediate and continuing supervision of the District Court.

101. The Act also provides for court review of every detention every 21 days and for expeditious processing of a detained asylum seekers application.

102. Persons detained under the Act must be told the following without delay and, where possible, in a language that they understand:

- a. the reason for the detention,
- b. that he or she will, as soon as practicable, be brought before a court which will determine whether he or she should be detained,
- c. that he or she is entitled to consult a solicitor,
- d. that he or she is entitled to have notification of his or her detention, the place of detention concerned and every change of such place sent to the UNHCR and to another person named by him or her,
- e. that he or she is entitled to leave the State at any time during the period of his or her detention after consultation with the court, and
- f. that he or she is entitled to the assistance of an interpreter for the purpose of consultation with a solicitor and for the purpose of any appearance before a court.

103. The Refugee Act, 1996, as amended, contains provisions similar to those existing in other EU States relating to the detention of asylum seekers in certain specified circumstances. Asylum applications in Ireland are processed in accordance with procedures agreed with the UNHCR and are based on the highest standards of international practice.

104. In relation to conditions of detention, most asylum seekers are held in Cloverhill Prison which is one of the most modern prisons in the Irish Prison Service.

105. However, in the context of the general prisons development programme, consideration will be given to establishing a dedicated immigration detention facility in the State.

***Persons held on asylum/immigration related matters.***

106. In Ireland, persons held under asylum/immigration legislation can be detained in Prisons.

There are 4 different categories of person held in this manner.

- persons refused leave to land
- applicants for asylum
- persons awaiting deportation
- persons on remand for an immigration-related offence.

107. Persons convicted on an immigration related criminal offence are dealt with as ordinary prisoners. For those not convicted of an offence but falling into one of the 4 categories above the current practice is that these persons are generally accommodated in Cloverhill Prison (males) and the Dochas Centre (females) both of which are modern facilities constructed to the highest standards and which provide a clean and healthy living environment for people detained there.

108. Persons detained on immigration matters are treated the same as remand prisoners and are subject to the same regime and receive the same privileges as this grouping. Such privileges include access to a letter, a phone call (to any part of the world for six minutes each day) and a visit every day (except Sunday). In Cloverhill Prison deportees are predominantly accommodated together on the C Division of the prison alongside other non-national prisoners.

109. The following table illustrates the numbers and the length of time persons have been detained on immigration matters over the past 3 years. The 2005 figures are provisional at this stage.

	0-3 Days	4-7 Days	8-14 Days	15-30 Days	31-50 Days	51+ Days	Total
2003	1140	324	6	12	3	367	1852
2004	414	195	127	75	65	70	946
2005	484	140	88	86	43	19	860

110. While there are some local variations the following represents a typical prison day for the offender in a closed prison.

8:10 Prisoners unlocked to collect breakfast.  
 8:30 Prisoners locked in their cells for breakfast.  
 9:00. Unlock  
 Prisoners unlocked for exercise, school\*, tuck shop, gym and work.  
 Prisoners wishing to see Governor, Doctor, Probation and Welfare etc. do so at this time.  
 10:00 – 12:00. Visits. (Legal Visits are allowed every day up to 7.30pm)  
 12:15 Prisoners served with dinner.  
 12:30 Prisoners locked in their cells.  
 14:00 Prisoners unlocked for exercise, school, gym and work.  
 14:00 – 16:00 Visits.  
 16:15 Prisoners served with tea.  
 16:30 Prisoners locked in their cells.  
 17:15 Prisoners unlocked for evening recreation.  
 19:20 Prisoners served with supper.  
 19:45 Prisoners locked in their cells for evening.  
 (\*Education Unit in Cloverhill is expected to open imminently)

***Voluntary Assisted Return and Re-integration programme***

111. In February, 2006, the Minister for Justice, Equality & Law Reform announced details of an agreement with the International Organization for Migration (IOM) on a new

assisted voluntary return and reintegration programme for non-EEA nationals who are asylum seekers and irregular migrants in Ireland.

112. This new programme builds on the success of the IOM's programmes which have been operating in Ireland since 2001. Since then almost 1,200 people have chosen to return to their countries of origin using IOM Dublin's programme. It is open to anyone in the asylum system to avail of IOM's services to return to their country of origin.

113. The new project aims to assist up to 300 persons over a period of twelve months. It will build on the achievements of the programmes which have been in operation since 2001. An additional element to this new programme is that all who participate in it will be eligible to apply for reintegration assistance in their countries of origin. The reintegration assistance is tailored to meet individual needs, and typically consists of one or more of the following: vocational training courses, formal education for adults and/or children, language courses, access to job placements, assistance in providing necessary tools for self-employment initiatives, information on job placements, and advice and referral to services available locally

114. The Committee notes the reported occurrence of instances of discriminatory treatment against foreign nationals entering Ireland during security checks at airports. (article 5)

**The Committee encourages the State party to review its security procedures and practices at entry points with a view to ensuring that they are carried out in a non-discriminatory manner.**

115. The immigration officers at ports of entry to the State are all serving members of An Garda Síochána. Consequently they bring their training and experience as professional police officers to bear on the execution of their duties under Section 3.3 of the Immigration Act 2004 which provides for the appointment of immigration officers by the Minister for Justice, Equality and Law Reform.

116. Because of a number of recent terrorist atrocities (USA September 11 2001, Madrid 11 March 2004 and London 7 July 2005) more rigorous checks against watch lists of known terrorists and criminals are required to protect the State and the Common Travel area with the United Kingdom. The nature of the immigration control duty in the climate of an international terrorist threat requires an appropriate balance to be struck between robust checks on the one hand and the need for reasonable efficiency on the other hand so as not to unnecessarily inconvenience travellers. The Garda authorities are fully aware of their obligations and responsibilities to ensure that work procedures and practices are such that they do not give rise to any form of discriminatory treatment of non-nationals arriving at the State's ports.

117. While welcoming the efforts of the State party with regard to the human rights training of the national police force, the establishment of a Garda Racial and Intercultural Office and the appointment of Garda Ethnic Liaison Officers, the Committee expresses concern about allegations of discriminatory behaviour by the police towards members of minority groups and regrets that data on complaints of racial discrimination against the police have not been provided in the report. (Article 5(b) and article 6)

**The Committee invites the State party to include in its next periodic report data on the number of complaints against members of the police concerning discriminatory treatment as well as on the decisions adopted. It further recommends that the State party intensify its sensitisation efforts among law enforcement officials, including the setting up of an effective monitoring mechanism to carry out investigations into allegations of racially motivated police misconduct.**

*Garda Human Rights Audit*

118. The final report of the Garda Human Rights Audit was launched in March 2005 and is available on the Garda website - [www.garda.ie](http://www.garda.ie). The Audit identified certain shortcomings in respect of the force and set out ways to address these matters in an open and transparent manner.

119. The audit focuses on:

- The need for An Garda Síochána to further underpin its good relations with the public by developing enhanced consultation contacts with them.
- Increased progress in securing the rights of staff.
- Human Rights compliance at both corporate and operational levels.
- Deducing from the evidence available to it the presence of institutional racism in the organisation.

120. The Commissioner an Garda Síochána fully accepts and has committed to act upon the fifteen recommendations contained in the report (see Appendix 2). An Action Plan has been devised to give effect to the recommendations. The five priority areas in the Action Plan are:

- Developing and underpinning comprehensive human rights ethos and structure in An Garda Síochána.
- Accountability Framework for human rights policing.
- Policing in a diverse community.
- Staff engagement, training and development.
- Community engagement, involvement and partnership.

121. Each of the recommendations will be introduced on a phased basis and will be in place by the 31st of December 2007. Assistant Commissioner, Human Resource Management, has been appointed in accordance with recommendation three of the action plan to monitor, oversee and ensure the implementation of all aspects of the report.

122. Progress to date includes:

- Establishment of a Strategic Human Rights Advisory Committee to support the Commissioner and senior managers of An Garda Síochána.
- Generic Human Rights training of all trainers.
- Training in Human Rights awareness has begun for all senior managers from Commissioner to Chief Superintendent rank.

### ***Garda Directive on National Action Plan Against Racism***

123. In January, 2006 the Commissioner, An Garda Síochána issued a Directive to every member of an Garda Síochána concerning the development of Garda strategies and services to meet the needs of a more diverse society. The Directive addressed a range of issues, including:

- Protection against assaults, threatening behaviour and incitement to hatred
- responding to victims of racially motivated incidents
- consultation processes with ethnic minority communities.
- Recording of racist incidents on the PULSE system.
- The Directive sets out procedures for a consultation process at Garda District, Divisional and National level. A copy of the Directive is in Appendix 3.

### ***Garda Recruitment***

124. In October 2004, the Minister for Justice, Equality & Law Reform announced the Government's approval for the expansion of the Garda Síochána to 14,000 members on a phased basis in line with the commitment in the Agreed Programme for Government. This involved an accelerated recruitment campaign of 1,100 Garda recruits each year in 2005-2007.

125. Following the Government decision, as part of the preparation for this recruitment campaign, the Minister asked the Garda Commissioner to review the eligibility criteria for entry to the Garda Síochána with a view to identifying any reasonable changes that would facilitate recruitment from different ethnic backgrounds in our society.

126. The requirement to hold a qualification in both Irish and English in the Leaving Certificate or equivalent was replaced with a requirement to hold a qualification in two languages, at least one of which must be Irish or English.

127. A new nationality or residency requirement was also introduced. The requirement to have a qualification in Irish had effectively limited entry to An Garda Síochána to Irish citizens. The new provision will significantly change this. Entry to An Garda Síochána will now be open to:

- a. nationals of an EU Member State, an EEA State or the Swiss Confederation, and
- b. nationals of any other state who are lawfully present in Ireland and have five years lawful residence here.

128. There will be a technical requirement on nationals from outside the EEA or Switzerland, before entry to the Garda College, to secure the permission of the Minister for Justice, Equality and Law Reform to be in employment in the State without an employment permit.

129. It is intended that recruits who do not have a qualification in Irish will undertake basic training in the language in the Garda College as part of their training, and the details of that language training will be finalised shortly in consultation with the Minister for Community, Rural and Gaeltacht Affairs.

130. The Minister's proposal was developed taking account of the Commissioner's review and consultations with the Minister for Community, Rural and Gaeltacht Affairs with the Attorney General and with stakeholders including Garda representative associations and representatives of the ethnic minority communities.

131. To assist in those in the recruitment process, the NPAR and the NCCRI in association with An Garda Síochána organised a seminar and workshop on the 6th October, 2005 and 11th October, 2005 respectively for persons from ethnic minority backgrounds interested in joining the Gardaí.

132. It is expected that the first recruits from this round of recruitment will emerge in August, 2006. The Public Appointments Service (PAS) is responsible for the administration of the application process as well as Stage 1 (aptitude testing) and Stage 2 (interview) of the Garda recruitment process. Information is not compiled on the nationality of persons who apply to join An Garda Síochána.

133. The PAS conducted two voluntary Equality Monitoring Surveys, one at the application stage and a second at Stage 1 (aptitude test). Completion of these surveys is voluntary and is not linked in any way with the actual application form.

134. Of a total of 8,462 applicants, 6,890 of these (i.e. 81%) completed the survey at the application stage. The PAS has compiled statistical reports of the profile of applicants based on the information provided by those who completed the voluntary surveys. This is based on the described "ethnic category" of applicants. Data is not recorded based on country of origin.

135. The PAS has advised that, of the 6,890 applicants who completed the survey at application stage, 1,310 applicants indicated that they were in an ethnic category other than "White Irish" as set out in the following table:

Ethnic Category	No. applied & completed Equality Monitoring survey
White other	348
Black – African	124
Black– other	5
Asian – Chinese	602
Asian – other	153
Other	78
Total	1310

136. The equivalent breakdown of applicants based on the results of the second PAS survey of applicants who went on to attend the Stage 1 aptitude tests is as set out in the table below:

Ethnic Category	No. sat Test
White other	146
Black – African	45
Black – other	4
Asian – Chinese	463
Asian – other	76
Other	123
Total	857

137. This survey at Stage 1 is also voluntary but not anonymous. Accordingly, the PAS were able to identify the profile of those who succeeded in the Aptitude test, as follows:

Ethnic Category	No. qualified
White other	57
Black – African	2
Black – other	1
Asian – Chinese	101
Asian – other	10
Other	22
Total	193

138. The remaining stages of the recruitment from this competition will be completed by the Garda Commissioner in the coming months.

### ***GARDA TRAINING***

Please see Appendix 3A for details of Garda training initiatives.

### ***Garda Ombudsman Commission***

139. The new Garda Ombudsman Commission will be empowered to directly and independently investigate complaints against members of the Garda Síochána as well as investigating any matter, even where no complaint has been made, where it appears that a Garda may have committed an offence or behaved in a way that would justify disciplinary proceedings. They will also investigate any practise, policy or procedure of the Garda Síochána with a view to reducing the incidence of related complaints. Preparatory work for the establishment of the Commission is well underway. On 12 December last, the Minister for Justice, Equality and Law Reform made an order under the provisions of the Garda Síochána Act 2005 establishing the Garda Síochána Ombudsman Commission. On 13 December 2005 the Government nominated Mr. Justice Kevin Haugh to be chairperson, Ms. Carmel Foley and Mr. Conor Brady for appointment by the President to be members of the Ombudsman Commission. They were appointed by the President on 10 February 2006.

140. The Minister for Justice, Equality and Law Reform has arranged to provide the Ombudsman Commission with a small transitional team from the staff of his Department to act as a temporary resource until it secures its permanent staff.

141. An allocation of €10m has been provided in 2006 for the new Commission. It is a matter for the Commission to recruit its staff, subject to the consent of the Minister for Justice, Equality and Law Reform and that of the Minister for Finance as to numbers and grades. It is expected that by the time preparatory arrangements are concluded including recruitment and training of new staff, it may take up to early next year before the Ombudsman Commission is in a position to start receiving complaints.

### ***Garda Síochána Inspectorate***

142. The primary function of the new Garda Síochána Inspectorate is to benchmark the overall policing performance of the Garda Síochána and to promote best practice in all its core operations. The future reports and research activity of the Inspectorate will help the Garda Síochána to meet the challenge to deliver continuous improvements in the services rendered.

143. One of the earliest tasks for the Inspectorate will be to conduct a manpower survey which will deal with optimal numbers, deployment, rostering, and civilianisation of tasks.

144. The Government appointed Ms. Kathleen M. O'Toole, outgoing Police Commissioner of the city of Boston, Massachusetts, USA to be the Chief Inspector of the Garda Síochána Inspectorate. She will take up her post on 1 July, 2006

### ***National Action Plan Against Racism***

145. The Protection Working Group of the National Action Plan Against Racism is working closely with An Garda Síochána to enhance the effectiveness of the force to provide protection against racism. The Working Group will also work with An Garda Síochána to further develop effective monitoring and analysis of data on racist incidents. The European Monitoring Centre on Racism and Xenophobia (EUMC), in a recent report found that 'Ireland was one of only six Member States which maintained a comprehensive system that adequately reveals the extent and nature of racist violence in their society'.

146. The Committee, noting that almost all primary schools are run by Catholic groups and that non-denominational or multi-denominational schools represent less than 1% of the total number of primary educational facilities, is concerned that existing laws and practice would favour Catholic pupils in the admission to Catholic schools in case of shortage of places, particularly in the light of the limited alternatives available. (Article 5(d)(vii) and 5(e)(v))

**The Committee, recognising the "intersectionality" of racial and religious discrimination, encourages the State party to promote the establishment of non-denominational or multi-denominational schools and to amend the existing legislative**

**framework so that no discrimination may take place as far as the admission of pupils (of all religions) in schools is concerned.**

147. The 1937 Constitution of Ireland requires the State to provide *for* (not provide) free primary education. The Education Act 1998 states in relation to new school recognition:

10 (2) (b) *“in the case of a proposed school and having regard to the desirability of diversity in the classes of school operating in the area likely to be served by the school, the needs of students attending or likely to attend the school, cannot reasonably be met by existing schools”.*

148. The Rules for National Schools do not discriminate between schools under the management of different religious denominations, nor may they be construed so as to affect prejudicially the right of any child to attend a national school without attending religious instruction at that school.

149. The demand of parents for access by their children to schools other than those of a particular denomination and for education delivered exclusively through the medium of the Irish language, has been a growing feature of educational planning over the past twenty years. The concept of providing for diversity/choice is now an established feature of the school planning landscape. The application procedure for recognition of new national schools was revised in 2002. The process is now open, structured and transparent. All potential sponsors of schools are treated on an equal basis.

150. In December 2002, the New Schools Advisory Committee was established as an independent body to assess all applications for recognition of new primary schools. The process includes a thorough consultation process; an assessment of the applications against published criteria; a report to the Minister with recommendations and a decision by the Minister on the granting of recognition to applicants. The process also includes an appeals mechanism.

151. Since the introduction of the new process, 76%<sup>4</sup> of the 25 new schools that have been granted recognition are multi-denominational/Irish medium schools — demonstrating the growth in demand for diversity of provision. The remaining 24% are denominational schools.

152. Section 7(3) (c) of the Equal Status Act 2000 provides that a school will not be taken to discriminate only if the objective of the school is to provide education in an environment which promotes certain religious values and it admits persons of a particular religious denomination in preference to others or it refuses to admit as a student a person who is not of that denomination. Additionally, in the case of a refusal, a school must be able to show that the refusal is essential to maintain the ethos of the school. This sets a very high level of proof for a school to have to discharge. Different schools have different ethos and Ireland’s Constitution recognises the fact of denominational education and envisages that

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<sup>4</sup> One of the Irish medium schools is under the joint patronage of the local Church of Ireland and Catholic Bishop.

children would receive religious education in State-funded schools. Schools have, therefore, a right to ensure that the religious education or ethos they provide is protected.

153. The Committee is concerned that the non-discrimination requirement stipulated in the 2000 Equal Status Act only covers government functions falling within the definition of a 'service' as defined by the Act itself. (article 5(f))

**In order to ensure comprehensive protection against discrimination by public authorities, the Committee urges the State party to consider expanding the scope of the Equal Status Act so as to cover the whole range of government functions and activities, including controlling duties.**

154. The question of extending the coverage of the Equal Status Act to cover the controlling functions of the State raises a number of fundamental issues. If this argument was accepted then actions taken by the Director of Public Prosecutions and the judiciary ought to also be covered and this would be contrary to the independence of the judiciary and the Director of Public Prosecutions, if an Equality Officer was to have powers to review decisions on arrest, prosecution and conviction.

155. It is open to an aggrieved person who claims to have been discriminated against by the Gardai or any other organ of the State to challenge in a High Court constitutional action or in judicial review proceedings.  
(See also response to recommendation 17 above – Garda Ombudsman Commission).

Please see reply to question No. 7 of the Rapporteur's list of questions in Appendix 4.

156. Recalling its General Recommendation VIII on the principle of self-identification, the Committee expresses concern at the State party's position with regard to the recognition of Travellers as an ethnic group. The Committee is of the view that the recognition of Travellers as an ethnic group has important implications under the Convention. (Article 1 and 5)

**Welcoming the open position of the State party in this respect, the Committee encourages the State party to work more concretely towards recognizing the Traveller community as an ethnic group.**

157. The Government is committed to challenging discrimination against Travellers and has defined membership of the Traveller community as a separate ground on which it is unlawful to discriminate under equality legislation. This was not meant to provide a lesser level of protection to Travellers compared to that afforded to members of ethnic minorities. On the contrary, the separate identification of Travellers in equality legislation guarantees that they are explicitly protected.

158. The Government accepts the right of Travellers to their cultural identity and is committed to applying all the protections afforded to national minorities under relevant international conventions. However, the Government has not concluded that Travellers are ethnically different from the majority of Irish people. The point also needs to be made that the Government is not alone in making this assessment. The 1995 Task Force Report on the Traveller community, which consisted of Government Departments, civil society

and Traveller representatives did not recommend that Travellers should be identified as an ethnic minority.

159. While noting the efforts made so far by the State party with regard to the situation of members of the Traveller community in the field of health, housing, employment and education, the Committee remains concerned about the effectiveness of policies and measures in these areas. (Article 5(e))

**The Committee recommends to the State party that it intensify its efforts to fully implement the recommendations of the Task Force on the Traveller community, and that all necessary measures be urgently taken to improve access by Travellers to all levels of education, their employment rates as well as their access to health services and to accommodation suitable to their lifestyle.**

*Effective Implementation*

160. It is accepted that much remains to be done to implement policy in respect of Travellers, in particular in areas covering accommodation, education, employment, health care, and access to certain goods and services, and that gaps also remained between central policy and its successful implementation at local and national levels. In this context a range of initiatives have been taken to improve the outcomes for Travellers.

161. In December 2003, at the request of the Taoiseach (Prime Minister), a High Level Group on Traveller issues was established. Its remit is to ensure that the relevant statutory agencies involved in providing the full range of services to Travellers, would focus on improving the practical delivery of such services. The High Level Group, which is chaired by the Department of Justice, Equality and Law Reform, comprises members of the Senior Officials' Group on Social Inclusion and other senior public servants with key responsibility for the delivery of Traveller specific services, and is a short term initiative to improve outcomes. The Group has also explored best practice with a view to eliminating the social exclusion which many Travellers experience.

162. Two local authorities - Clare County Council and South Dublin County Council - lead two projects which operate under the aegis of the High Level Group with the aim of promoting an interagency approach to the planning and delivery of services. These pilot projects have been successful in improving service delivery and the interaction between public bodies. They have also led to the development of a number of employment initiatives for Travellers. A number of other pilot projects were initiated during 2005 and these have helped increase awareness among public bodies of the need to ensure close cooperation between public bodies and close consultation with local Travellers who are the direct service users. The projects have also helped to highlight a number of critical issues which have a cross sectoral dimension. (e.g targeted family supports, transition to mainstream provision in education and training, gender roles, barriers to employment). The work of the pilot projects was presented at a seminar in Dublin on 21 February which was attended by over 270 representatives of public bodies and Traveller Organisations.

163. The High Level Group produced a comprehensive report with 59 conclusions and recommendations. The report emphasised the need for interagency cooperation, meaningful consultation with Travellers and their representatives and the incorporation of law enforcement

measures into the interagency approach. The report was approved by the Government on 21 March 2006 and the High Level Group is remaining in place to oversee the initial implementation of its recommendations and in particular the proper establishment of the interagency approach at local level.

164. On 10 April 2006 the Taoiseach wrote to relevant Ministers emphasising the need for Departments and public bodies to play a full part in the interagency approach. Departments were asked to ensure that all relevant personnel in Departments and agencies were made aware of their responsibilities in this regard.

165. On 18 April 2006 the Department of Environment Heritage and Local Government wrote to City and County Managers asking for the preparation of a strategic plan in relation to Travellers within six months, to be overseen by the City and County Development Boards. The Department of Justice, Equality and Law Reform will monitor and support the establishment of interagency groups in consultation with the other Departments represented on the High Level Group.

### *Education*

166. Travellers are entitled to the same education provision as all other students throughout all levels of education. They are entitled to learning support and resource support in the same way as other students with identified educational need. In addition, over and above what is available to the general population, additional special provisions are made available to assist Travellers succeed in education throughout the lifelong learning spectrum. The Department of Education and Science in the academic year 2004/2005 spent over €6m on the additional special provisions. Such special provisions include: pre-schools for Travellers, Resource teachers for Travellers in primary schools, additional teaching hours in post-primary schools, enhanced capitation grants for Traveller students in primary and post-primary schools, a visiting teachers service for Travellers consisting of 40 teachers, 3 Traveller specific centres for 12 - 15 year olds, and 33 Senior Traveller Training Centres (to cater for Travellers from 15+ years).

167. The Minister for Education and Science is expecting to receive shortly a Report on Recommendations for a Traveller Education Strategy. The report spans the full spectrum of lifelong learning from pre-school to adult and further education. The report emphasises the important role that Traveller parents have in their own education and that of their children. Inclusion is a core principle which has guided the development of the report.

168. The publication of the "Guidelines on Traveller Education in Primary Schools" (2002), the "Guidelines on Traveller Education in Second Level Schools" (2002) along with the NCCA's guidelines on "Intercultural Education in the Primary School" (2005) and their publication of guidelines on "Intercultural Education in the Second Level School" later in 2006 continue to assist schools in addressing diversity and interculturalism.

169. A survey of Traveller education provision (STEP) was undertaken by the Inspectorate of Department of Education and Science in 2004. The survey found that the vast majority of Traveller children were enrolling in primary education, but that their attendance rates and their attainment levels in English and mathematics were lower than their settled peers. Evaluation of Traveller education provision at second level revealed that

the proportion of Traveller children transferring to second level education from primary was increasing annually, but there are continuing challenges in relation to attendance, retention and early school leaving.

170. The report acknowledges the significant progress that schools, the support services, the Department of Education and Science and parents have achieved in respect of the increased participation of Traveller children in the education system and the improved transfer rates of students from primary to post-primary schools. Many schools are providing good supports for students including homework clubs, after-school activities, counselling services, and a proactive approach to improving school attendance.

171. The major developments in Traveller education noted were as follows:

- Schools have adopted an inclusive approach to Traveller education whereby almost all Travellers are integrated with other students
- There are extensive supports available at school level to support the education of Travellers who have special educational needs or learning difficulties
- The visiting teachers services for Travellers has been effective in increasing enrolment at both primary and post-primary levels and in supporting Traveller parents in their role in their children's education
- The majority of Traveller children have access to a broad and balanced curriculum. Some scope for development in relation to access to a balanced curriculum was identified in the case of Travellers in post-primary schools

172. Areas where further improvements are required were identified as follows:

- Greater emphasis needs to be placed on a systematic approach to improving the attendance and achievement levels of Traveller children. There needs to be a system in place in all schools to constantly monitor the progress being made by Traveller children.
- The visiting teachers service should concentrate their resources on working with schools to improve children's attendance and achievement, to ensure that all Traveller pupils transfer to post-primary schools and to support teachers in developing learning and behaviour management programmes for Traveller children.
- Research should be undertaken to establish why a very high proportion of Travellers children are identified as having special educational needs, relative to the settled population.

173. The findings and recommendations in the STEP report and the Report with Recommendations for a Traveller Education Strategy will inform policy and practice in relation to the continued provision of an ever improving quality education for Travellers along the lifelong learning spectrum.

174. The Department of Education and Science will play an active role in helping to implement the recommendations in the report of the High Level Group on Traveller Issues issued in March 2006.

### ***Employment***

175. A sub-group of the High Level Group on Traveller Issues was established with a remit to develop an Employment and Training Plan for Travellers, to generate activity in this area and encourage greater co-operation among the relevant statutory agencies in the implementation of the initiatives arising from the Plan. The sub-group on Employment and Training of Travellers is chaired by the Department of Enterprise, Trade and Employment and comprises representatives of relevant Government Departments and FÁS.

176. FÁS has developed a number of initiatives which aim to improve the participation of the Travelling Community in the Irish Labour Market. Clare, Dublin, Galway and Cork were targeted specifically for this initiative (details in Appendix 5), while the Special Training Fund focuses on the training needs of adult Travellers nationally.

177. Building on the expertise available within the community, and adopting an interagency approach to service delivery, national and regional steering groups have been set up to oversee the implementation of the initiative, with representatives from the various community, voluntary and statutory organisations including FAS, Co. Council, DSFA, Pavee Point, Travellers Training Centres, Enterprise Boards, VEC & Traveller Groups.

178. Central to the success of this initiative is the appointment of a Traveller Development Officer in each designation area reporting to the Local Steering Group. Their role is to provide mentoring / advocacy to Travellers in a very creative way, to provide good information to the Travelling community about the range of opportunities open to them and to encourage Travellers into the legitimate workforce by reducing the barriers that can hold them back from fully participating in the labour market.

179. To date, the pilot has been successful in building important bridges into mainstream employment:

- 10 Travellers have secured Apprenticeship in Galway
- 5 Travellers have gained employment in Clare Co. Council
- 6 Travellers have gained employment in the private sector
- 2 Caretaker positions await confirmation
- 2 Travellers are undertaking valuable work-experience as Peer Workers in two Secondary schools in Ennis to encourage Traveller students to stay on in school and another Traveller is undertaking work-experience in a crèche in Coolock.
- 2 Traveller Enterprises have been set up in the areas of Waste Management and Construction, and another Traveller business in the Security sector has become legitimised.
- A further 12 enterprises are at various stages of development.
- Over 130 Travellers have/ are undertaking valuable training in areas such as Construction skills, Safepass, Forklift driving, HGV Licence, ECDL, Personal Development training etc.
- 2 Travellers are undertaking a Diploma in Youth & Community Development

180. In addition to the employment, education and training gains, the initiative has created the opportunity for role models in the Travelling community to emerge.

181. Despite these gains a number of challenges exist, such as the need for ongoing support for Travellers once in employment, ongoing mentoring / business support and

helping to source additional business and employment opportunities for Travellers. In addition, the opportunity cost of employment, including the medical card issue still remains a stumbling block for Travellers accessing paid employment. An evaluation of the initiative is currently underway with a view to having the learning mainstreamed.

182. There have also been a number of initiatives on Traveller employment within public sector organisations. The Department of Communications, Marine and Natural Resources and South Dublin County Council have provided training, work experience and employment opportunities for Travellers. As part of work of the High Level Group sub-group on employment and training the Department of Finance is developing an initiative to provide work placements in the civil service for suitably qualified Travellers. Details of this initiative are not yet finalised and there will be consultation with Traveller Organisations. It is envisaged that each Government Departments will be asked to identify a number of appropriate work experience opportunities.

183. The numbers of jobs generated by the various initiatives outlined above is not large. However given that Travellers represent 0.6 per cent of the population (24,000) the development of similar employment projects has potential for significant impact within the Traveller Community.

### ***Health***

184. “*Traveller Health – A National Strategy 2002 – 2005*” provided a framework for the development of health services for Travellers. Since 1997 over €1 million in ongoing revenue has been allocated to Traveller specific health services such as the appointment of designated Public Health Nurses for Travellers and the replication of *The Primary Health Care for Travellers Project*, a model for Traveller participation in the development of health services. This funding is channelled through the Traveller Health Units which monitor and coordinate the delivery of health services to Travellers and support the development of Traveller specific services.

185. The priority for the Department of Health and Children in 2006 is the commissioning of new research into the health status of Travellers. The Department is currently in the process of commissioning this research jointly with the Department of Health, Social Services and Public Safety, Northern Ireland and in consultation with the Traveller organisations.

186. The purpose of the research will be to examine the health status of Travellers, to assess the impact of the health services currently being provided and to identify the factors which influence mortality and health status. The study will be designed to use methodologies that are culturally appropriate and to produce results which can be translated into meaningful policy and practice.

### ***Accommodation***

187. The Government's accommodation objective is to enable every household to have available an affordable dwelling of good quality, suited to its needs, in a good environment and, as far as possible, at the tenure of its choice.

188. Government policy in relation to the accommodation of Travellers is implemented through the Housing (Traveller Accommodation) Act 1998. All relevant local authorities are obliged, under the Act, to adopt and implement multi-annual Traveller accommodation programmes, with the aim of improving the rate of provision of accommodation for Travellers. The first accommodation programmes ran from 2000 to 2004 and, during the lifetime of these programmes, 1,371 additional Traveller families were accommodated in permanent accommodation.

189. All relevant local authorities have adopted their second accommodation programmes, to cover the period 2005 to 2008. Authorities are obliged to include in these programmes annual target, broken down by accommodation type, for the provision of accommodation for Travellers. The main categories for annual targets cover (a) the number of additional Traveller families accommodated in standard local authority accommodation; (b) the number of new units of Traveller-specific accommodation completed; and (c) the number of existing units of Traveller-specific accommodation refurbished. The majority of local authorities have returned their monitoring returns for 2005, and these are being examined in the Department.

190. Significant funding continues to be made available for the provision of Traveller-specific accommodation. In addition to the €130 million expended on such accommodation - new and refurbished - in the period 2000 to 2004, €37 million was expended in 2005, and the budget for this accommodation has been increased to €45 million for 2006. (Accommodation expenditure for Travellers availing of standard local authority accommodation is provided separately.)

191. Local authorities carry out an annual count of the number of Traveller families already in local authority accommodation or living on unauthorised sites. They also estimate the number of such families providing their own accommodation. This count is carried out in late November each year. The local authorities reported that on 25 November 2005 there were 7,266 Traveller families living in the State. This figure included 5,177 families - 71% of all Traveller families - living in accommodation provided by local authorities or with local authority assistance. At the time of the November 2005 count there were 589 families - 8% of such families - living on unauthorised sites.

192. The most significant recent development concerning the delivery of accommodation for Travellers was the publication, in March 2006, of the report of the High Level Group on Traveller. The Group's report, which has been accepted by the Government, contains a number of accommodation-related recommendations. These include a request for the establishment of a pilot scheme involving local authorities, the Irish Council for Social Housing, and Traveller organisations, re developing a Voluntary Housing model for Travellers. By adopting the recommended coordinated inter-agency approach to the provision of services, it is expected that there will be an improvement in the provision of accommodation services for Traveller families.

193. The Committee notes that members of the Traveller community are not adequately represented in the State party's political institutions and do not effectively participate in the conduct of public affairs. (Article 5(c))

**The Committee invites the State party to consider adopting affirmative action programmes to improve the political representation of Travellers, particularly at the level of Dáil Eireann and/or Seanad Eireann .**

194. The National Action Plan Against Racism (NPAR) identifies a number of measures to enhance the participation of cultural and ethnic minorities in political processes, including

- Consider the reservation of a seat in Seanad Eireann for a representative from a cultural and ethnic minority.
- Enhance the role of the Oireachtas committees and sub committees, in particular the Joint Oireachtas Committee on Justice, Equality, Defence and Women's Rights, to consider issues related to racism and cultural diversity.
- Encourage political parties to develop proactive measures to enhance/remove barriers to participation of people from cultural and ethnic minorities within their membership and associated structures.

195. In this regard, the Participation and Recognition Working Group under the NPAR is entering discussions with representatives of the seven political parties represented in the Oireachtas to see how political parties could encourage cultural and ethnic minorities to engage in the political process.

196. The Committee is particularly concerned about the situation faced by women belonging to vulnerable groups and at the instances of multiple discrimination they may be subject to. (Article 5)

**The Committee, recalling its General Recommendation XXV, encourages the State party to take measures with regard to the special needs of women belonging to minority and other vulnerable groups, in particular female Travellers, migrants, refugees and asylum seekers.**

197. Considerable efforts are made in the asylum determination process to ensure that the needs of vulnerable persons are adequately catered for at all stages in that process. At first instance it is the policy of the Office of the Refugee Applications Commissioner (ORAC) that each and every application for refugee status is fully and properly investigated and that a fair recommendation is made in relation to each application. This includes, in particular, applications made by more vulnerable groups of applicants, which could include female applicants. Consequently, every effort is made at the interview to ensure that female applicants have an opportunity to fully explain their circumstances and any fears why they may be reluctant to return to their country of origin.

198. Insofar as the investigation and determination of applications is concerned, all adult applicants are interviewed separately and are entitled to bring a legal advisor with them. This allows women applicants to have the opportunity to present their own case and therefore have the opportunity to maintain the confidentiality of that case. Where a gender related issue has been highlighted in the information provided by a female applicant in their questionnaire, a female interviewer will always be assigned to the case and ORAC will endeavour to ensure that the interview is serviced by a female interpreter.

199. Therefore, gender specific issues are taken into account by the ORAC as they arise in the asylum process and ORAC's induction training addresses issues specific to female applicants and to the management of their claims. A resource paper on the issue of Gender related persecution has been used as an internal training aide in recent advanced training module provided by this Office. The training modules draw on the UNHCR Guidelines as well as guidelines developed by the Canadian, US and UK authorities in this area. This and the other resource papers are not currently in the public domain.

200. In addition, a team of ORAC trainers has received training on racism and interculturalism awareness from the National Consultative Committee on Racism and Interculturalism (NCCRI). A training module on interculturalism awareness was designed in consultation with the NCCRI and has been rolled out to the organisation in 2004 and 2005.

201. The resource papers were developed to assist practitioners in analysing applications for refugee status and to facilitate a fair and consistent approach to the consideration and determination of cases. However, an in-depth analysis of each case on its own merits is still carried out.

202. Reference would therefore continue to be made to the provisions of the Refugee Act, 1996 as amended, recent jurisprudence in Ireland and other countries, up to date country of origin information and to the UNHCR handbook ( & subsequent guidelines), where necessary when coming to a decision in relation to any individual case.

203. Special arrangements are also in place in the Refugee Appeals Tribunal to deal with asylum claims from vulnerable groups. In the assignment of cases gender sensitive issues are taken into consideration. Requests for a case to be assigned to a female member of the Tribunal or to have a female interpreter engaged are accommodated insofar as possible.

204. In relation to female migrants, as distinct from asylum applicants, the State is fully aware of its obligations with regard to their special needs and that these conform to best international practice.

(See also response to recommendation 13)

205. The Committee remains concerned that in respect of the judicial review of administrative decisions on immigration issues a fairly short time limit has been introduced. (article 6)

**The Committee hopes that all issues pertaining to the appeal procedure will be adequately resolved within the framework of the proposed Immigration Bill (2004) currently before the Dáil.**

206. Work is progressing on the preparation of the Immigration and Residence Bill. The question of review/appeal procedures in the immigration area are being considered in the context of this proposed new legislation. The Minister for Justice, Equality and Law Reform expects to be in a position to publish the Bill later this year.

**The Committee wishes to encourage the State party to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and**

**ILO Convention No. 97 on Migration for Employment (Revised), to ensure better protection for migrants and migrant workers.**

207. The Convention on Migrant Workers has been open for signature and ratification since December 1990 but, to date, only 27 states have ratified it. No European Union member state has as yet signed or ratified the convention, nor has any indicated an intention to do so.

208. The Convention on the Rights of Migrant Workers has been examined by several Government Departments. It would appear that in order for Ireland to ratify the convention, significant changes would have to be made across a wide range of existing legislation, including legislation addressing employment, social welfare provision, education, taxation and electoral law. These changes would also have implications for our relations with our EU partners, none of whom has signed or ratified the convention, and possibly for the operation of the common travel area between Ireland and the UK. There are no plans at present to introduce the changes in the areas above which would be necessary before Ireland could ratify or consider signing the convention.

209. Moreover, the Convention on the Rights of Migrant Workers has not acquired universal recognition as a standard for the protection of the human rights of migrant workers. It should also be noted that the rights of migrant workers and their families are already comprehensively protected under existing national legislation and under the Irish Constitution. In addition, the rights of migrant workers and their families are addressed by Ireland's commitments under international human rights instruments to which the State is already a party. These international instruments include, for example, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

210. The Irish Human Rights Commission is holding a roundtable discussion in relation to Migrant Workers on the 21st June, 2006 and one of the issues to be explored in those discussions will be ways of overcoming the perceived barriers to ratification of the Migrant Workers Conference

**The Committee recommends to the State party that it continue consulting with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.**

211. The Irish Government is happy to consult with civil society organisations as recommended by the UNCERD Committee. It is of interest to note that the NCCRI and the IHRC organised a seminar on the UNCERD follow-up process on 11 February, 2006 and that the NGO Alliance held a seminar on Anti-Racism Strategies for Activists and Practitioners on 22 March, 2006.

**The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.**

212. The Irish Government as with the initial and second National Report will make future reports and UNCERD Committee Concluding Observations publicly available.

**The Committee recommends that the State party submit its third and fourth periodic reports jointly, due on 28 January 2008, and that it address therein all points raised in the present concluding observations.**

213. The Irish Government will work towards this deadline for its third and fourth periodic report.