

NATIONAL ARCHIVES

IRELAND



Reference Code:	2012/59/1737
Creation Date(s):	22 June 1982
Extent and medium:	3 pages
Creator(s):	Department of Foreign Affairs
Access Conditions:	Open
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P 3.1.1

Genève, le 22 juin 1982

Mr. David Neligan,
Assistant Secretary,
Anglo-Irish Division
Department of Foreign Affairs

Dear Assistant Secretary,

Further to Ambassador Hayes' letter of 26 May 1982 concerning the communication received by the UN Division of Human Rights from Mr. Harold Mc Cusker, M.P., I have spoken to Mr. Moller, Chief of the Communications Unit concerning the procedures for such communications.

Under resolution 728 f (XXVIII) of the Economic and Social Council the UN Secretary-General acknowledges all communications received, forwards to Governments copies of any communications which refer explicitly to their countries, and asks Governments sending replies to communications brought to their attention whether they wish their replies to be presented to the Commission on Human Rights in summary form or in full.

Resolution 1503 (XLVIII) of the Economic and Social Council adopted the procedure for dealing with communications relating to violations of human rights and fundamental freedoms. It authorises the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint a Working Group of not more than five of its members, to meet once a year for a period not exceeding ten days immediately before the sessions of the Sub-Commission, to consider all communications, including replies of Governments, with a view to bringing to the attention of the Sub-Commission those communications, together with replies of Governments, if any, which appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms within the terms of reference of the Sub-Commission. It requests the Sub-Commission to consider in private meetings the communications brought before it in accordance with the decision of the majority of the members of the working group and any replies of Governments relating thereto and other relevant information with a view to determining

whether to refer to the Commission on Human Rights particular situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights requiring consideration by the Commission. The Commission then decides whether the situation requires a thorough study under resolution 1235 (XLII) or whether it may be the subject of an investigation by an ad-hoc Committee appointed by the Commission under particular conditions.

Resolution I (XXIV) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted the provisional procedures for dealing with the question of admissibility of communications. Under the heading "Standards and Criteria" the object of the communication must not be inconsistent with the relevant principles of the UN Charter, of the Universal Declaration of Human Rights and of the other applicable instruments in the field of human rights. Communications are admissible only if there are reasonable grounds to believe that they may reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in any country, including colonial and other dependent territories and peoples. The presentation of Mr. Mc Cusker's communication shows considerable familiarity with these criteria and with other provisions of resolution I (XXIV).

Copies of this resolution, together with resolutions 728 F (XXVIII), 1503 (XLVIII) and 1235 (XLII) are attached.

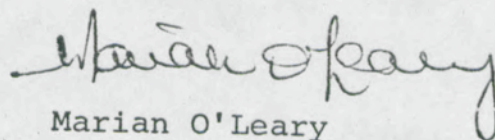
Mr. Moller pointed out that although Governments are under no obligation to reply to communications, it is in their interest to do so. If there is no reply from the Government and the communication looks serious, the Sub-Commission may decide to pass it to the substantive stage at the Commission itself. The Government reply may deal with the question of admissibility or with the substance of the communication. In addition Mr. Moller commented that this is an unusual complaint in that it alleges that a Government is obliged to take measures to prevent a third party from infringing on the rights of the individual. The communication may well generate a certain amount of interest because of this.

The Working Group on Communications will meet from 2 to 13 August 1982, while the Sub-Commission on Prevention of Discrimination and Protection of Minorities will meet from 16 August to 10 September 1982. Should the

Government decide to reply it would be important to do so as early as possible to allow its full consideration by the Working Group. I have undertaken to tell Mr. Moller whether we will be issuing a reply. I would therefore appreciate an indication of our intentions in this regard.

I will be in touch with my British colleagues on the questions you raised orally with Ambassador Hayes and will report separately on these points.

Yours sincerely,


Marian O'Leary