



**EUROPEAN MIGRATION  
NETWORK**

**ANNUAL REPORT ON  
STATISTICS ON  
MIGRATION, ASYLUM AND  
RETURN:  
IRELAND, REFERENCE  
YEAR 2003**

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## *LIST OF ABBREVIATIONS AND IRISH TERMS*

Dáil	Parliament, lower House.
Gardaí/Garda Síochána	Police
GNIB	Garda National Immigration Bureau
ORAC	Office of the Refugee Applications Commissioner
Oireachtas	Parliament, both houses
RAT	Refugee Appeals Tribunal
UNHCR	United Nations High Commissioner for Refugees

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# 1. MIGRATION ISSUES

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## 1.1 Analysis and Interpretation of the Migration Statistics

### 1.1.1 MIGRATION FLOWS

Table 1 shows recorded immigration and emigration flows and total population for the years 1999-2005. In the 1990s Ireland changed from being a country of net emigration to being a country of net immigration. For example, in the year to the end of April 1990 about 56,000 people left Ireland and about 33,000 people entered so that there was a net loss of population of nearly 23,000 people. The total population in April 2003 was estimated at 3.98 million – the highest figure since 1871 when the Census for that year recorded a population of 4.05 million. The estimated number of immigrants in 2003 was 50,100 while emigrants numbered 18,500 in the same period. Both flows were down slightly compared with the previous twelve-month period.

**Table 1: Migration Flows 1999-2005**

	1999	2000	2001	2002	2003	2004	2005 1 <sup>st</sup> April
Legally resident population (1 <sup>st</sup> January)	3,734,901	3,786,931	3,838,942	3,897,000	3,978,880	-	4,130,700
Recorded immigration	48,900	52,600	46,158	50,500	50,100*	70,000	-
Recorded emigration	31,500	26,600	19,855	20,700	18,500*	16,600	-

\*Figures refer to April 2003 to April 2004. (These figures were added by the Irish National Contact Point.)

### 1.1.2 POPULATION BY CITIZENSHIP IN 2003

Population by citizenship data are available only from the Census. The last Census took place in 2002 and the next will take place in 2006. There are, therefore, no data available for 2003.

### 1.1.3 RESIDENCE PERMITS: ANNUAL TOTAL POSITIVE DECISIONS 2003

There are no data available on decisions regarding residence permits.

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## 1.2 Contextual Interpretations (Legal, Political and International Factors)

### 1.2.1 MAIN TRENDS AND DEVELOPMENTS IN THE AREA OF MIGRATION POLICY 2001-2003

The period 2001-2003 saw some tightening of immigration policy which could have contributed to reduced immigration flows. The main developments are discussed below.

#### 1.2.1.1 *Immigration Act 2003*

The Immigration Act 2003 introduced a number of amendments to the Refugee Act 1996 which are discussed below at Section 2.2.1.1. The most significant provision with regard to migration issues was the introduction of carrier liability, whereby a carrier can be held responsible and fined for bringing an undocumented immigrant to the State. The 2003 Act requires carriers to carry out basic checks to ensure that passengers from outside the Common Travel Area (UK, Northern Ireland, the Channel Islands and the Isle of Man)

are in possession of valid documentation necessary for entry into the State. Provision is also made for the return of persons refused leave to land, usually by the carrier responsible, to the point of embarkation.

A number of statutory regulations were introduced following the enactment of the Immigration Act 2003. The Approved Ports Regulations 2003<sup>1</sup> list approved ports for non-nationals arriving in the State from places outside the State other than Great Britain or Northern Ireland, and those for non-nationals arriving in the State from within the Common Travel Area. The Carrier Liability Regulations 2003<sup>2</sup> set out the forms of notice to be given to carriers alleged to be in breach of Section 2 of the Immigration Act 2003. Finally, the Removal Direction Regulations 2003<sup>3</sup> prescribe the form to be used by an immigration officer or a member of the Garda Síochána (police) to give a direction in writing to a carrier to remove a person from the State.

### *1.2.1.2 Irish-Born Children and Irish Citizenship*

Since the foundation of the Irish State citizenship has been granted to all persons born on the territory. Prior to 1998 this right was provided for in legislation only. By way of the Belfast Agreement Article 2 was inserted into the Constitution, which stated that any person born on the island of Ireland (Northern Ireland and the Republic) was entitled to Irish citizenship. A Supreme Court ruling in 1989 found that the Irish-born, and therefore Irish citizen, child of a non-national couple had a right to the “care, company and parentage” of his or her family in the State.<sup>4</sup> This ruling meant that non-national parents were generally granted residency in Ireland. In some cases asylum seekers abandoned their asylum applications and instead claimed leave to remain based on their Irish-born child. As a result of a further Supreme Court ruling in January 2003 the administrative practice was altered and non-EU parents of Irish children ceased to automatically gain residency rights.<sup>5</sup>

In July 2003 the Government announced that immigrants could no longer seek residency based on their child’s Irish citizenship and suspended the processing of residency claims lodged on that basis. It was argued that both within and outside the asylum framework large numbers of non-EEA nationals were coming to Ireland to give birth in order to acquire Irish citizenship for their child and subsequently to apply for residency in Ireland. This development marked the beginning of a public debate on the acquisition of Irish citizenship which led to a Constitutional referendum in June 2004 and ultimately to reform of Irish citizenship law. (See Quinn (2005) for a more detailed discussion.)

### *1.2.1.3 Employment Permits Act 2003 and Migration from the Accession States*

After the signing of the EU Accession Treaty in April 2003 accession state nationals were given priority over other non-EEA nationals in respect of the awarding of work permits. In its *Annual Report 2003* the Department of Enterprise, Trade and Employment argued that the bulk of Irish labour needs from overseas could be met from within the enlarged EU. As a result they stated that generally “... only higher skilled, higher paid posts will need to be

<sup>1</sup> S.I. No. 445 of 2003.

<sup>2</sup> S.I. No. 447 of 2003.

<sup>3</sup> S.I. No. 446 of 2003.

<sup>4</sup> *Fajujonu v. The Minister for Justice* [1990] 2 I.R. 151.

<sup>5</sup> *Lobe v. Minister for Justice, Equality and Law Reform* [2003] IESC 1 (Supreme Court, 23 January 2003).



filled by way of recruitment from outside the enlarged EU and economic migration policy will be implemented accordingly". The Annual Report records that late in 2003 the Department became aware that employers in Ireland were still seeking only around 35 per cent of their overseas labour needs from the accession states. Accordingly, the Department began to implement a policy of accession country preference by sending back to employers, with an explanation of policy, applications in respect of third country nationals in cases where experience had shown that the requisite skills were available in the accession countries. Employers were also informed that an application to fill the post in question with an accession state national would be more likely to succeed (Department of Enterprise, Trade and Employment, 2004).

The Employment Permits Act, 2003 was introduced in order to facilitate free access to the Irish labour market for nationals of ten EU accession states after 1st May 2004. The Act also allows the Minister for Enterprise, Trade and Employment to re-impose a requirement for employment permits in respect of nationals of the accession states post 2004, if the labour market is experiencing, or is likely to experience a "disturbance". The Act also has implications for migration from beyond the accession states. For the first time, the requirements for employment permits in respect of non-nationals working in Ireland are set out in primary legislation, together with penalties for non-compliance by both employers and employees.

In January 2003 the Department of Enterprise, Trade and Employment announced that "Ineligible Occupation Sectors" would be specified on a quarterly basis. Applications for work permits in these sectors were no longer considered as there were deemed to be sufficient personnel registered with FÁS to fill any positions arising. In April 2003 the Department also introduced a "fast track" list of occupations. Vacancies arising within these occupations were deemed unlikely to be filled by EEA nationals, therefore, applications for work permits are processed more quickly.

#### *1.2.1.4 Method of Exercising Ministerial Immigration Controls*

An important debate took place within the period regarding the extent of the power of the Minister for Justice, Equality and Law Reform as exercised through secondary rather than primary legislation. The debate related specifically to immigration controls. In 1999 the High Court found that the manner in which the 1935 Aliens Act conferred on the Minister the power to make secondary legislation (Aliens Orders) in relation to deportation was inconsistent with the Constitution. In response the Oireachtas enacted the Immigration Act, 1999. However, in January 2004 the High Court found that Section 2 of the 1999 Act was an unconstitutional legislative method of giving the effect of primary statute to secondary legislation. Consequently, in February 2004 the Government introduced the Immigration Act, 2004. Considerable controversy attended the speed with which this Bill was passed through the legislative process into law. The State stressed that the judgment had left Ireland without a legislative basis for the operation of immigration controls and that such a situation warranted urgent action. The 2004 High Court judgment was later overturned by the Supreme Court.<sup>6</sup>

#### *1.2.1.5 Institutional Developments*

The Minister for Justice, Equality and Law Reform signalled an intention to move staff from asylum related functions to deal with workloads in the areas of: repatriation, voluntary returns, citizenship and visas (Department of Justice,

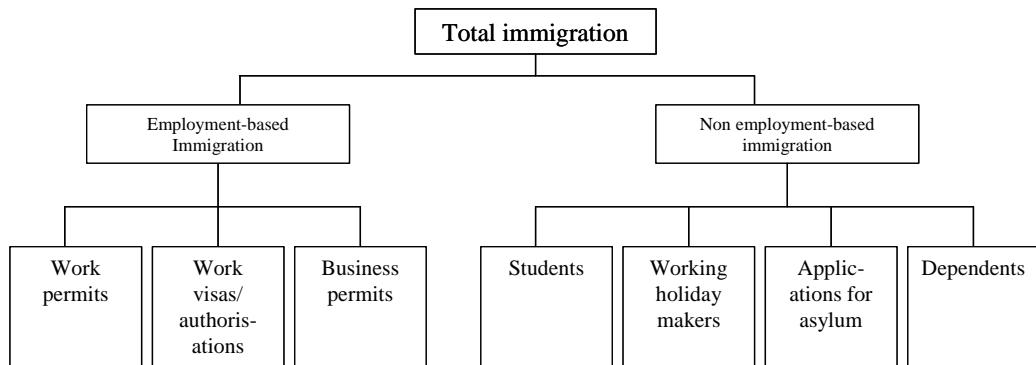
<sup>6</sup> The relevant cases are: *Laurentiu v Minister for Justice*, (2000) 1 ILRM 1 and *Leontjava and Chang*, (2005) 1 ILRM.

Equality and Law Reform, June 2004). In addition in March 2004 the Reception and Integration Agency undertook responsibility for repatriating Accession State nationals who are not entitled to receive social welfare in Ireland because they do not meet the Habitual Residency Condition.

### 1.3 Existing Categories of Admission or Non-Admission in 2003

Figure 1 summarises the various categories of admission of non-EU nationals to Ireland.

**Figure 1: Channels of Legal Immigration to Ireland**



Source: Adapted from Ruhs (2005).

Excluding asylum related issues, which will be discussed in Section 2, third country nationals may enter Ireland for work or study purposes, for holidays or to join family members already resident in Ireland. At present Irish legislation does not specifically provide for long-term secure resident status for third country nationals. The following are the main categories of admission into the State:

*Admission for the purpose of employment:* In general, a non-EEA national requires a work permit to take up employment in the State. The work permit system is operated by the Department of Enterprise, Trade and Employment. Permits are issued to the employer to employ a specific person to fill a specific vacancy. A work authorisation/working visa scheme was introduced in 2000 in respect of certain skill categories i.e., IT and computing, construction and nursing professionals. Under this scheme, a person with a job offer can apply to an Irish Embassy/Consulate abroad for a working authorisation/working visa without having a work permit. Schemes to allow persons coming to the State on intra-corporate transfer or to train with an Irish based firm were suspended on 29 October 2002 and are subject to review.

*Admission for the purpose of study:* A person wishing to enter Ireland for the purpose of study must fulfil the following conditions:

- provide evidence of acceptance on a full-time, privately funded course of education in a college;
- provide evidence of full payment of fees for the course;
- provide evidence of self-sufficiency;
- every student should have private medical insurance.

*Business Permission:* Non-EEA nationals are required to apply to the Minister for Justice, Equality and Law Reform for permission to establish a business in the State. The criteria are as follows:

- the proposed business must result in the transfer to the State of capital in the minimum sum of €300,000 (except in the case of certain states e.g.,

- those exercising rights of establishment under certain association agreements);
- the proposed business must create employment for at least two EEA nationals;
  - the proposed business must add to the commercial activity and competitiveness of the State;
  - the proposed business must be a viable trading concern and provide the applicant with sufficient income to support themselves and any dependants without resorting to social assistance or paid employment for which a work permit would be required;
  - the applicant must be in possession of a valid passport or national identify document and be of good character.

*Spouse of an Irish national:* In general, a person seeking to enter and reside in the State as the spouse of an Irish national must provide evidence that the marriage is valid and subsisting.

*Dependant of an EEA national:* Dependants of an EEA national who is economically active in Ireland may seek permission to enter and reside in the State. A person who is non-economically active, e.g., a retired person, may seek permission to enter and reside in the State. The conditions to be fulfilled are that the applicant has sufficient resources to support himself/herself, his/her spouse and any accompanying dependants and is able to provide full medical and health insurance for the aforementioned. Persons should also be of good character.

#### *1.4 European/International Factors Explaining Certain Changes/Continuity Regarding Migration in 2003 in Comparison with the Years 2001 and 2002*

The growth in immigration and drop in emigration experienced in Ireland are trends that are mainly attributable to domestic economic development. It is now accepted that the boom, in what became known as the era of the “Celtic Tiger”, resulted in real growth rates in excess of 8 per cent per annum during the second half of the 1990s and an increase of nearly 400,000 jobs, or almost 30 per cent, from 1.3 million in 1996 to 1.7 million in 2001. Output and employment growth have now slowed but continue to grow at moderate rates. Employment, for example, grew by more than 100,000 between 2001 and 2004 from 1.7 million to 1.8 million (see Hughes and Quinn, 2004).

The Irish Government’s policy of sourcing most of the economy’s requirements for foreign workers from within the EU resulted in an increase in the proportion of work permits issued to nationals of the Central and Eastern European States, Malta and Cyprus who were preparing to join the EU in 2004.

## 2. ASYLUM ISSUES

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### 2.1 Analysis and Interpretation of the Asylum Statistics

#### 2.1.1 TRENDS IN FIRST-TIME ASYLUM APPLICATIONS IN 2003 COMPARED TO 2001 AND 2002

Over the period 1992 to 2002 the number of people who sought asylum in Ireland under the 1951 Geneva Convention Relating to the Status of Refugees increased from 39 to 11,634. Table 2 shows the number of first instance asylum applications lodged in the years 1997-2003. Between 2002 and 2003, however, the number of first instance applications fell by over 30 per cent to 7,901. The reduction in the number of applications to some extent reflects international trends; UNHCR (2004) data show that applications decreased across many industrialised countries in the same period. However, domestic policy does appear to have contributed to this downward trend. The Minister for Justice, Equality and Law Reform welcomed the fall in applications between 2002 and 2003 as the second biggest reduction in the EU (Department of Justice, Equality and Law Reform, June 2004).

**Table 2: Total Number of First Asylum Applications During the Period 1998-2003**

	1997	1998	1999	2000	2001	2002	2003
Number of first applications	3,883	4,625	7,702	10,913	10,316	11,634	7,901

A possible reason for the fall in the number of applications is the Government announcement in July 2003 that applications for leave to remain based on parentage of Irish-born children would no longer be accepted. In addition, the elimination of rent supplement for asylum seekers; the introduction of sanctions for the employment of illegal immigrants in the Employment Permits Act, 2003 in April 2003; the introduction of carriers liability in September 2003; and changes in asylum legislation such as the introduction of the 'Safe Country of Origin' concept in September 2003 may all have contributed to the downward trend. These measures are discussed more fully below at Section 2.2.1.

Table 3 shows the total number of first instance asylum applications broken down by citizenship. Applications lodged by Nigerian nationals fell by 23 per cent between 2002 and 2003, however, this group again accounted for the majority (39 per cent) of total applications lodged in 2003. Applications for asylum made by Romanian and Moldavian nationals fell by 54 per cent each. The number of applications made by nationals of Ghana and the Czech Republic fell by 39 and 37 per cent respectively while the number made by nationals of the Democratic Republic of Congo remained relatively stable (5 per cent fall).

**Table 3: First Asylum Applications by Main Countries of Citizenship, 2003**

	<b>Total</b>
<b>TOTAL</b>	<b>7,901</b>
Nigeria	3,110
Romania	777
Congo, The Democratic Republic of the	256
Moldova, Republic of	244
Somalia	183
Ghana	180
Czech Republic	169
China (including Hong Kong)	168
Croatia	164
Albania	142

### 2.1.2 FIRST AND FINAL POSITIVE DECISIONS IN 2003

**Table 4: Total Number of (First Instance) Decisions 2003**

	<b>Total</b>
<b>Total</b>	<b>9,313</b>
Positive decisions	345
Negative decisions	7,845
Other non-status decisions	1,123

The total number of positive, negative and other first instance decisions made in 2003 are shown in Table 4. The total number of first instance decisions remained relatively stable between 2001 and 2003, as did the number of negative decisions. The most notable changes were in respect of positive decisions. The number of positive first instance decisions issued increased from 458 in 2001 to 893 in 2002 and then fell to 345 in 2003. In 2003 a substantial proportion of the total first instance decisions issued were classified as 'other non-status decisions'. This category was empty in 2001 and 2002. This change is because certain types of cases could not be processed to completion before the introduction of new measures in the Immigration Act, 2003 (Office of the Refugee Applications Commissioner, 2004).

### 2.1.3 CHANGES IN THE STATUSES GRANTED TO PARTICULAR CITIZENSHIP GROUPS IN 2003

**Table 5: Total Number of Positive Decisions (First Instance) by Type and Country of Citizenship, 2003**

	<b>Total</b>	<b>Geneva Conv. Stat. Granted</b>	<b>Humanitarian Status and All Other Types of Subs. Protect.</b>	<b>Other</b>
<b>Total</b>	<b>345</b>	<b>345</b>	<b>0</b>	<b>0</b>
Zimbabwe	47	47	0	0
Angola	26	26	0	0
Somalia	24	24	0	0
Nigeria	21	21	0	0
Pakistan	17	17	0	0
Others	210	210	0	0

Table 5 shows the breakdown of first instance decisions by citizenship of the person concerned. The total number of positive first instance decisions granted in 2003 is 39 per cent of the corresponding 2002 figure. It is not surprising therefore that the number of positive decisions fell across most citizenship categories between 2002 and 2003. In the case of Zimbabwean citizens the number of positive first instance decisions issued in 2003 was just 30 per cent of the number issued in 2002. The corresponding 2001 figure is not available. There were 125 positive first instance decisions issued in respect of citizens of the Democratic Republic of Congo in 2003, however, this country does not appear on the 'top five' supplied in Table 5.

Available data indicate that 3,496 Humanitarian Status/Other Types of Subsidiary Protection decisions were issued in 2002 while none were issued in 2001 or 2003.<sup>7</sup>

## 2.2 Contextual Interpretations (Legal, Political and International Factors)

### 2.2.1 NEW OR AMENDED LAWS EFFECTIVE IN 2003

#### 2.2.1.1 *Amendments to the Refugee Act, 1996*

The Refugee Act, 1996 was amended substantially through the Immigration Act, 2003. The main changes are discussed below:

- *Safe Country of Origin:* The concept of a Safe Country of Origin was introduced for the first time in the Immigration Act, 2003. With effect from 15 September 2003, applicants for asylum from such designated countries must rebut the presumption that they are not in need of refugee protection. The Refugee Appeals Tribunal makes decisions on the basis of papers alone rather than with an oral hearing.

The Refugee Act (Safe Countries of Origin) Order, 2003 lists the countries designated as safe for this purpose. The list of countries deemed to be 'Safe Countries of Origin' will be kept under review. In September 2003 it comprised: Bulgaria, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia.

- *Prioritisation directives and accelerated procedures:* Through the amendments contained in the 2003 Act the Minister was empowered to issue Prioritisation directives to the Refugee Applications Commissioner and the Refugee Appeals Tribunal for certain categories of applicants. These may be apparently unfounded claims; apparently well-founded claims; cases of family reunification or other categories (for example, applicants aged under 18 years or those from Safe Countries of Origin, see below). A Prioritisation directive requires the Office of the Refugee Applications Commissioner (ORAC) and the Refugee Appeals Tribunal (RAT) to deal with the specified category of cases as soon as possible.

On 15 September 2003, the Minister for Justice, Equality and Law Reform directed the Refugee Applications Commissioner to prioritise the countries designated as 'Safe Countries of Origin'. In December 2003 the Minister for Justice, Equality and Law Reform directed the Chairperson of the Refugee Appeals Tribunal to accord priority to asylum applications received from Nigerian nationals.

The amendments to the Refugee Act also inserted a list of categories of applicants that may be subject to 'accelerated' procedures, which overlaps with the 'prioritised' list. Many of these categories would previously have been deemed 'manifestly unfounded' under the old system. In the case of a negative decision by the ORAC, where the decision includes a finding listed in the new Section 13 of the Act,<sup>8</sup> the applicant is not entitled to an oral appeal and will have ten working days to appeal a negative status determination instead of fifteen. The Minister has the power to decrease

<sup>7</sup> Currently, Ireland does not have a formal system of complementary protection. However, under Section 3(6) of the Immigration Act, 1999 it is provided that in considering an application for 'leave to remain' the Minister has regard to 'humanitarian considerations'. In practice this resembles a complementary protection scheme.

<sup>8</sup> Such findings include a finding that the application showed a weak basis for the contention that the applicant is a refugee; the applicant gave false, contradictory or incomplete evidence; there was unexplained delay between entering the State and making an asylum application; the applicant had lodged a prior application for asylum in another State party to the Geneva Convention; and that the applicant is a national of, or has a right of residence in, a safe country of origin.

this period of appeal further to four working days for certain categories of applicants although this power has not been exercised to date.

- *Increased duty to co-operate and credibility:* During 2003 the ORAC made 1,503 recommendations to refuse refugee status because of non-attendance at scheduled interviews representing 10 per cent of all recommendations issued that year. The problem of poor participation posed serious management and resource challenges to ORAC staff (Office of the Refugee Applications Commissioner, 2003). Amendments to the Refugee Act introduced in the Immigration Act, 2003 allow the ORAC to more easily conclude cases where there is unsatisfactory participation in the asylum application process. The amendments require asylum applicants to notify the relevant bodies of address changes, respond promptly to correspondence about asylum applications, turn up for scheduled interviews etc.

Applicants who fail to co-operate run the risk of having their applications deemed withdrawn and consequently rejected – a status without any right to appeal. In the period since the new measures became effective September 2003 until December 2003, 1,666 asylum applications were deemed withdrawn in this way, representing 17 per cent of total recommendations issued in the year (Office of the Refugee Applications Commissioner, 2004). The new regulations appear to have had the effect of improving participation. For example, at the Office of the Refugee Applications Commissioner, 69 per cent of all scheduled interviews were attended and went ahead in December as opposed to 40 per cent in January (Office of the Refugee Applications Commissioner, 2004).

The Refugee Act, 1996, as amended by the Immigration Act, 2003, places explicit emphasis on the credibility of asylum applicants in the determination of their claim. The Act now lists a range of factors the ORAC and the Refugee Appeals Tribunal must consider. These include no reasonable explanation for a lack of identity documents or for having forged documents; giving vague, incomplete or obviously false information on how the applicant got to Ireland; and having no reasonable excuse for a delay in making an application.

- *Dublin II Regulation:* The Act provides for revised arrangements for dealing with asylum applications which could be the responsibility of another EU Member State or Norway or Iceland and in this context makes provision for giving effect to the Dublin II Regulation.<sup>9</sup>
- *Fingerprinting:* All asylum applicants may now have their fingerprints recorded, including children under 14 years under special supervision.
- *Detention:* The permissible period for detention of asylum applicants between Court appearances was increased from 10 to 21 days.

### 2.2.1.2 *Social Welfare (Miscellaneous Provisions) Act, 2003*

Under the Social Welfare (Miscellaneous Provisions) Act, 2003 asylum seekers are no longer entitled to receive a rent supplement. Their needs are met through the State's direct provision accommodation and dispersal arrangements.

<sup>9</sup> On 1 September 2003 the Dublin II Regulation succeeded the Dublin Convention as the instrument which provides the legal basis for determining which EU Member State is responsible for examining an asylum application. All Member States plus Norway and Iceland are subject to the new Regulation, with the exception of Denmark (the Dublin Convention remains in force between Denmark and the other Member States). After an asylum application is made, Ireland has three months under the Dublin II Regulation (as opposed to six months under the Dublin Convention) to ask another country to take responsibility for the application. Under the Dublin II Regulation, Member States are required to respond to these requests within either two months or one month depending on the circumstances of the case (three months under the Convention).

### 2.2.2 PROCEDURAL CHANGES EFFECTIVE IN 2003

- *Asylum appeals*: There were 9 per cent fewer substantive appeals received in 2003 than in 2002 and three times as many manifestly unfounded/accelerated appeals received in 2003. The 2003 Refugee Appeals Tribunal Annual Report attributes these changes to the amendments to the asylum process introduced in the Immigration Act, 2003 (Refugee Appeals Tribunal, 2004). Since September 2003 two sets of appeals procedures have been in operation. Under the old system appeals could be classed as substantive, manifestly unfounded or Dublin Convention. Under the new system appeals may be substantive, prioritised or Dublin II<sup>10</sup> regulation.<sup>11</sup>

In terms of completions of substantive appeals the 2003 figures show a marked decrease on 2002 figures. This is due to the fact that much fewer asylum applicants withdrew from the process at appeal stage in 2003 than in 2002 (599 compared to 190). Such withdrawn cases would have been included as completed in the 2002 figures. In contrast the number of manifestly unfounded/accelerated appeals completed almost doubled year on year (Refugee Appeals Tribunal, 2004).

- *EURODAC*: Since November 2000 a policy of mandatory fingerprinting has been implemented in Ireland. Any asylum-seeker over the age of 14 years must have their fingerprints recorded. Refusal can lead to detention and possible deportation. In January 2003 the EURODAC fingerprinting system became fully operational. Since 15 January 2003, the fingerprints of anyone who applies for asylum in the European Union (except Denmark, for the time being) and in Norway and Iceland, are stored in a database called EURODAC.
- *Imposition of reporting and residency requirements*: In tandem with the changes introduced in the asylum process by means of the Immigration Act, 2003 a policy change was made with regard to the imposition of reporting and residency requirements on asylum applicants. Since September 2003 a requirement is imposed on all applicants at the time of making an application to reside in a particular reception centre and in addition a requirement to report at regular intervals is imposed on those applicants falling within the categories subject to the prioritisation directives. The objective of this policy change is to ensure rapid identification of applicants not co-operating with the asylum process thereby ensuring greater efficiency in use of resources.

### 2.2.3 EUROPEAN/INTERNATIONAL FACTORS EXPLAINING CERTAIN CHANGES REGARDING ASYLUM TRENDS IN 2003 IN COMPARISON WITH 2001 AND 2002

The number of first instance applications fell by over 30 per cent between 2002 and 2003 to 7,901. As discussed above the reduction in the number of applications to some extent reflects international trends; UNHCR (2004) data show that applications decreased across many industrialised countries in the same period.

<sup>10</sup> See footnote above.

<sup>11</sup> Substantive appeals include the option of an oral hearing and may be lodged within 15 days. Manifestly unfounded/accelerated appeals do not involve an oral hearing and the appeal must be lodged in a shorter period.



# 3. ILLEGAL ENTRY

## 3.1 Analysis and Interpretation of Statistics

### 3.1.1 DEVELOPMENTS/TRENDS IN NUMBER OF REFUSED ALIENS IN 2003 IN COMPARISON TO 2001 AND 2002

The number of non-Irish nationals refused entry continued to increase in 2003 as is shown in Table 6. The breakdown of persons refused entry to Irish territory by their country of citizenship is shown in Table 7.

**Table 6: Total Number of Refused Aliens During the Period 1997-2003**

	1997	1998	1999	2000	2001	2002	2003
Number of refused aliens					5,504	5,647	5,826

**Table 7: Refused Aliens by Main Country of Citizenship, 2003**

	Total
<b>TOTAL</b>	<b>5,826</b>
Romania	608
Nigeria	583
Poland	556
Lithuania	477
Brazil	396
South Africa	278
Unknown	250
Latvia	247
Czech Republic	213
Moldova, Republic of	172
Others	2,046

The number of non-Irish nationals refused entry continued to increase in 2003 as is shown in Table 6. The breakdown of persons refused entry to Irish territory by their country of citizenship is shown in Table 7.

The number of Latvian and Polish citizens refused entry increased between 2001 and 2003 by 95 and 75 per cent respectively. The number of Lithuanian citizens refused entry also increased in the same period. Between 2001 and 2002 the number of refusals in respect of Romanian citizens almost doubled; however in the period 2002 and 2003 this group showed the biggest decrease in refusals in absolute terms (197 persons or 24 per cent). Proportionately Moldavian citizens showed the biggest decrease in refusals between 2002 and 2003 (49 per cent, 163 persons).

The rise in the number of refusals of accession state nationals may reflect increased numbers of people travelling to Ireland in advance of accession on May 1 2004 without the necessary documentation. As discussed above the Immigration Act 2003 set out a provision for designating safe countries of origin and by way of an Order in September 2003 the Minister designated the ten accession states, Bulgaria and Romania as 'safe'. The designation only becomes relevant however in the processing of asylum claims and should not

impact on border entries.<sup>12</sup> The decrease in the number of Romanian citizens refused entry together with the decrease in the number of Romanian citizens claiming asylum suggests that fewer people were travelling to Ireland from Romania in 2003.

### 3.1.2 DEVELOPMENTS/TRENDS IN NUMBER OF APPREHENDED ALIENS IN 2003 IN COMPARISON TO 2001 AND 2002

**Table 8: Annual Totals of Apprehended Aliens Illegally Present During the Period 1997-2003**

	1997	1998	1999	2000	2001	2002	2003
Number of apprehended aliens	6	24	24	25	52	115	-

There are no data supplied for the total number of apprehended non-Irish nationals illegally present for 2003.

### 3.1.3 DEVELOPMENTS/TRENDS IN NUMBER OF ALIENS REMOVED IN 2003 IN COMPARISON TO 2001 AND 2002

**Table 9: Annual Totals of Removed Aliens During the Period 1997-2003**

	1997	1998	1999	2000	2001	2002	2003
Number of removed aliens			6	186	364	521	-

There are no data supplied for the number of non-Irish nationals removed in 2003.

### 3.1.4 IN CASES OF REFUSED, APPREHENDED, AND REMOVED ALIENS IN 2003, ARE THESE FROM THE SAME COUNTRIES IN ALL CATEGORIES, OR ARE PARTICULAR CITIZENSHIP GROUPS MORE COMMON IN A PARTICULAR CATEGORY? IF POSSIBLE, EXPLAIN THE UNDERLYING CAUSES.

Insufficient data are supplied to answer this question.

## 3.2 Contextual Interpretations (Legal, Political and International Factors)

### 3.2.1 NEW OR AMENDED LAWS INFLUENCING IRREGULAR IMMIGRATION IN 2003

As discussed above carrier liability was introduced through the Immigration Act, 2003. A carrier may now be held responsible and fined for bringing an undocumented immigrant to the State. The 2003 Act requires carriers to carry out basic checks to ensure that passengers are in possession of valid documentation necessary for entry into the State. Provision is also made for the return of persons refused leave to land, usually by the carrier responsible, to the point of embarkation.

In February 2003 the Minister for Justice, Equality and Law Reform commented that 50 per cent of asylum claims lodged were not being pursued to

<sup>12</sup> The Immigration Act 2004 sets out the conditions under which a non-Irish national may be refused permission to enter the territory. These include that the non-national: is not in a position to support himself or herself and any accompanying dependants; is not in possession of a valid employment permit, passport, identity document or relevant visa; is the subject of a deportation order or an exclusion order; or that it is believed that the person intends to travel to Great Britain or Northern Ireland, and would not qualify for admission there.

finality.<sup>13</sup> The people concerned may still be living in Ireland, or may have travelled to the UK or further afield. Amendments to the Refugee Act introduced in the Immigration Act, 2003 discussed at Section 2.2.1.1 allow the ORAC to more easily conclude cases and if necessary issue deportation orders in cases where there is unsatisfactory participation in the asylum application process.

The Immigration Act 2003, also introduced an obligation on State departments to share information on non-nationals for the purposes of administering immigration law.

The Employment Permits Act, 2003 introduced for the first time a requirement in legislation for work permits in respect of non-EEA workers together with penalties for non-compliance for employers and employees.

The intra-corporate transfer scheme was established in 1999 to enable companies with sister companies abroad to transfer workers for a training period of up to four years without requiring a work permit. The scheme was suspended in October 2002 due to abuse.

### **3.2.2 PROCEDURAL CHANGES INFLUENCING IRREGULAR IMMIGRATION IN 2003**

The GNIB Information system was rolled out to all ports of entry in the first quarter of 2003. In addition an electronic document tracking system was introduced in May 2003. It was noted that this system has become "...a rich repository of intelligence, facilitating rapid document tracking, and updating of information" (An Garda Síochána, 2004). A new area regarding Carriers Liability (which assists with monitoring of offences committed by carriers, as well as the printing of warning, offence and payment notices) was added to the GNIB Information System in September 2003. An interface was developed between the GNIB Information System and that of the Department of Social and Family Affairs in October 2003. In addition if a person produces a work permit on entry, its validity can be checked via an interface with the Department of Justice, Equality and Law Reform. The GNIB also has an interface with the Office of the Refugee Applications Commissioner (ORAC) and the Department of Foreign Affairs (DFA).

As part of the effort to combat people smuggling/trafficking the Gardaí have conducted a number of raids on lap dancing clubs and brothels in recent years. Operation Gladiator in 2002 and Operation Quest in 2003 were launched under the Illegal Immigrant (Trafficking) Act, 2000.

### **3.2.3 EUROPEAN/INTERNATIONAL FACTORS EXPLAINING CERTAIN CHANGES/CONTINUITY REGARDING ILLEGAL ENTRY IN 2003**

There are insufficient data supplied to answer this question.

<sup>13</sup> Vol. 561 No.12 Written Answers – Migration and Asylum Issues. 12<sup>th</sup> February 2003.

## 4. OTHER DATA AND INFORMATION AVAILABLE

### 4.1 Cross-Border Labour Employment

Table 10 shows the number of people who travelled to Ireland to take up employment on work permits in 2003. Table 11 shows the number of work visas/authorisations issued between 2000 and 2003.

**Table 10: Work Permits Issued in 2003 by Nationality**

Country, Region	2003
USA, Canada	1,265
Australia	1,149
India	1,030
Japan	209
Pakistan	830
Philippines	4,042
South Africa	2,468
Baltic States	9,723
Other EU Accession States	6,883
Other Eastern Europe	9,974
Other Countries	9,978
Total	47,551

**Table 11: Work Visas/Authorisations Issued 2001-2003**

Year	Work Visas	Work Authorisations*	Total
2001	2,667	1,082	3,749
2002	1,753	857	2,610
2003	791	367	1,158

*Source:* Department of Enterprise, Trade and Employment.

\*Working visas are held by nationals of countries requiring visas to enter Ireland and Authorisations by those who do not.

Until relatively recently the number of workers entering the country with work permits was small, and did not change very much over the years. Many of those involved tended to be skilled, working in multinational enterprises, in the medical sphere or in a self-employed capacity in the catering area. However the number of new and renewed permits issued has escalated in recent years, rising from just under 6,000 in 1998 to over 47,000 in 2003. From 1999 to 2001 about a third of the total work permits issued in any one year were renewed in the following year.<sup>14</sup> However, the figures available for 2003 indicate that this proportion had increased to 62 per cent. A notable feature of the 2003 data is that the number of new permits issued fell (to under 23,000 compared with

<sup>14</sup> The calculation of the proportion for work permits renewed in a particular year is based on the total issued in the previous year. It may be possible that some non-nationals whose permits have expired remain in the country and continue to work illegally, but no estimates of the extent of such activities are available.

24,000 in 2002), but renewals increased from 16,600 to 25,000. This suggests a tendency by employers to try to retain such workers rather than seek new permits.

The number entering from the Baltic States on work permits, for example, was only 17 in 1998 but had risen to almost 9,700 in 2003. For the same short period, the inflows from other EU Accession States increased from about 200 to almost 7,000. In 2003 somewhat over a third of the total inflow of work permit holders came from the Accession States but these states will cease to be a part of the work permit data from 2005 onwards. There have also been very large increases in the case of citizens of other Eastern European countries, South Africa and the Philippines. The most rapid increases in the number of work permits granted occurred in the agricultural sector and in activities associated with the catering and hotel industries.<sup>15</sup>

Table 12 shows the number of deportation orders issued and effected between 2001 and 2003 together with data on voluntary returns effected.

## 4.2 Return and Repatriation Migration

**Table 12: Voluntary Return and Deportation from Ireland, 2001-2003**

	Deportation Orders Signed	Deportation Orders Effected	Voluntary Returns Effected
2001	2,025	365	365
2002	2,430	521	506
2003	2,411	590	762

*Source:* Department of Justice, Equality and Law Reform.

<sup>15</sup> This information is a summary of that provided by Hughes and Doyle, (2005) for the OECD Continuous Reporting System on Migration. Internal OECD Report.

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