



# **EUROPEAN MIGRATION NETWORK**

## **ANNUAL REPORT ON STATISTICS ON MIGRATION, ASYLUM AND RETURN: IRELAND 2002**

**GERARD HUGHES**

2005

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and  
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## *Abbreviations and Irish Terms*

Dáil	Parliament, lower House.
Gardaí/Garda Síochána	Police
ORAC	Office of the Refugee Applications Commissioner
Oireachtas	Parliament, both houses.
RAT	Refugee Appeals Tribunal

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## A.1. POLICY CHANGES AND LEGAL DEVELOPMENTS IN 2002

### *A.1.a Principles of Current Immigration Policy*

Up to the mid-1990s Ireland was traditionally a country of emigration. Since then it has undergone rapid economic expansion. The advent of a high rate of economic growth and a rapid fall in unemployment caused shortages at all skills levels across the Irish labour market which has resulted in significant inflows of migrants in recent years in search of work or asylum. Immigration policy in Ireland has developed mainly in response to satisfying the growing needs of the labour market.

The Department of Justice, Equality and Law Reform has responsibility for entry and residence in the State. The Department of Enterprise, Trade and Employment has responsibility for all labour market policy and operates the issuing of work permits. The Department of Foreign Affairs issues visas through its embassies and consular offices. The Garda National Immigration Bureau, which forms part of the national police force, operates immigration checks at the main points of entry to the State and is also responsible for the registration of third country nationals.

The aim of immigration policy in Ireland is to achieve the correct balance in ensuring, on the one hand, that the integrity, security and authority of the State and its economic and social fabric are protected and, on the other, that the rights and interests of immigrants are upheld. In addressing its obligation to regulate entry arrangements into the State, the government's aim is that the arrangements that are in place to service the needs of the community must also facilitate, in line with government policy, the integration of immigrants in a way which acknowledges mutual obligations for both new immigrants and Irish society.

### *Existing categories of admission and general conditions*

Excluding asylum related issues which will be discussed in section B, third country nationals can enter Ireland for work or study purposes, 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;

<sup>1</sup> The parts of this report dealing with current immigration and asylum policy and illegal entry and return are taken from the Irish section of the 2001 Public Annual Report on Asylum and Migration produced by the European Commission (accessed at [http://europa.eu.int/comm/justice\\_home/doc\\_centre/asylum/statistical/doc\\_annual\\_report\\_2001.en.htm](http://europa.eu.int/comm/justice_home/doc_centre/asylum/statistical/doc_annual_report_2001.en.htm)). The parts reporting on statistical trends are based on data supplied by the responsible national authorities in Ireland and verified by Eurostat.

- 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. EC Regulation No. 1612/68 Article 10 refers. 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.

### ***A.1.b New or Amended Laws***

The legislative basis for the Irish immigration system dates mainly from 1935, although some elements have been the subject of recent legislation. However, the policies and operational practices employed in immigration control, within that legislative framework, have changed significantly in recent years in response to the developing demands placed on the system by the new realities of immigration in Ireland. The basic legislation on which the system is founded is in the course of replacement.

In recognition of the fact that current immigration legislation is outdated and in need of replacement, work is ongoing on the preparation of new Immigration and Residence legislation which will provide a comprehensive and modern legislative code covering the full range of the law on immigration and residence in the State. At present the main legislative provisions for immigration and asylum are:

The Aliens Act 1935 and the Orders made under that Act

The European Communities Rights of Residence Regulations 1977 and 1997

The Refugee Act 1996

The Immigration Act 1999

The Illegal Immigrants (Trafficking) Act 2000

In practice, the system is largely based on non-statutory administrative procedures.

## A.2. ANALYSIS AND INTERPRETATION OF THE MIGRATION STATISTICS

### A.2.a. General Migration Trends

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. In the year to the end of April 2002 Table 1 shows that about 26,000 people left and 67,000 people entered resulting in a net gain in population of over 41,000 people. Between 1999 and 2002 the table shows that the number of immigrants increased from 48,900 to 66,900 while the number of emigrants fell from 31,500 to 25,600.

**Table 1: Migration flows 1999-2003**

	1999	2000	2001	2002	2003
Legally resident population (1st January)	3,734,901	3,776,577	3,826,159	3,858,495	3,963,636
Recorded immigration	48,900	52,600	59,000	66,900	
Recorded emigration	31,500	26,600	26,200	25,600	

### A.2.b Largest Groups of Third Country Nationals

The composition of the population by nationality on Census night in April 2002 is shown in Table 2. The total population in 2002 was 3,858,495. Of these 3,584,975 or nearly 93 per cent were Irish nationals. The total number of non-nationals amounted to 273,520. Almost half of these, 133,436, were other EU-nationals and the other half, 140,084, were non-EU nationals. In percentage terms other EU-nationals made up 3.5 per cent of the total population and non-EU nationals made up 3.6 per cent. Table 2 also shows the ten countries with the largest number of third country nationals living in Ireland. The United States comes at the top of the list with 11,384 of its nationals residing in Ireland. Most of those from the US would either be coming to work or to return to the land of their ancestors. The next biggest group comes from Nigeria, 8,969. Many of the Nigerian nationals would have entered the country as asylum applicants and have been subsequently granted refugee status. The third largest group comes from China, 5,842. Most of the Chinese immigrants are either working or studying in Ireland. The fourth largest group of non-nationals comes from Romania. Some Romanian nationals would have entered as asylum applicants while others would have had work permits. Immigrants from the remaining six countries are likely to be residing in Ireland for reasons related to work or study.

**Table 2: Population by Main Groups of Citizenship, 2002**

	<b>28-04-2002</b>
Total Population	3,858,495
Nationals	3,584,975
Other EU-Nationals	133,436
Total Non-EU nationals	140,084
<i>Most important third country nat.:</i>	
USA	11,384
Nigeria	8,969
China	5,842
Romania	4,978
South Africa	4,185
Phillipines	3,900
Australia	3,706
Pakistan	2,939
Russia	2,703
India	2,534
Others	88,944

The reasons suggested in the last paragraph for the presence of different national groups in Ireland are based on information from different sources rather than on statistical evidence relating to the issuing of residence permits which would include data on the reason why the permit is being issued. Figures are not published for Ireland on the annual total number of residence permits issued according to the main categories for migration: family formation/reunification, study, employment.

## B. Asylum Issues

### B.1. POLICY CHANGES AND LEGAL DEVELOPMENTS IN 2002

#### *B.1.a Principles of Current Asylum Policy*

The Department of Justice, Equality and Law Reform has overall responsibility for all aspects of asylum policy and procedures. For the purposes of processing asylum claims and appeals and the co-ordination of services, the Government has put in place the following three pillar structure:

The Office of the Refugee Applications Commissioner (ORAC): Its primary areas of responsibility are (i) to investigate applications from those who seek a declaration of refugee status and to issue appropriate recommendations to the Minister for Justice, Equality and Law Reform on such applications and (ii) to investigate applications by refugees to allow family members to enter and reside in the State and report to the Minister for Justice, Equality and Law Reform on such applications.

The Refugee Appeals Tribunal (RAT): It is responsible for considering and deciding appeals against recommendations of the Refugee Applications Commissioner to refuse the granting of a declaration of refugee status. Recommendations from the ORAC and RAT are passed to the Minister for Justice, Equality and Law Reform where the final decision in relation to asylum applications is made. In general, the Minister has no power to overturn positive recommendations that refugee status be granted except where national security or public policy reasons may apply.

The Reception and Integration Agency (RIA): It is responsible for planning and coordinating the provision of services, including health, education and welfare services for asylum seekers and co-ordinating the implementation of integration policy for refugees and persons with leave to remain in the State.

The reception system operates on the basis of the dispersal of asylum seekers to suitable accommodation throughout the country and direct provision which is a means of meeting the needs of asylum seekers on a full board basis rather than through full cash payments. Reduced personal allowances under the Supplementary Welfare Allowances (SWA) scheme are paid to take account of the full board accommodation provided. The basic payments are €19.05 per adult and €9.52 per child. Once off payments can also be made under the SWA scheme to provide for exceptional needs such as clothing.

Facilities for the accommodation of asylum seekers are designated as Reception Centres or Accommodation Centres where asylum applicants are provided with accommodation and ancillary services. Medical screening is made available to all asylum seekers during this initial period. Asylum seekers remain in these Accommodation Centres until such time as a determination has been made on their application.

***The possible outcome of the procedure and the types of decisions and permits are:***

1. Positive decision to grant refugee status at First Instance
2. Negative decision at First Instance on the basis of a Manifestly Unfounded application
3. Negative decision at First Instance following Substantive consideration
4. Negative decision at First Instance-Dublin Convention Case
5. Appeal granted – Manifestly Unfounded; Returned to Office of the Refugee Applications Commissioner for examination
6. Appeal Granted – Substantive; Decision Overturned
7. Appeal refused
8. Dublin Convention – Appeal Granted; Returned to Office of the Refugee Applications Commissioner for examination

***Appeal Procedures***

The Refugee Appeals Tribunal is a statutorily independent body and exercises a quasi-judicial function. The role of the Tribunal is to consider and decide appeals from recommendations of the Refugee Applications Commissioner, that applicants should not be declared to be refugees. The Tribunal consists of individual part-time independent members (all lawyers) with a full-time Chairperson who deal with appeals against negative recommendations of the Refugee Applications Commissioner. The Tribunal deals with three types of appeals – Substantive, Manifestly Unfounded and Dublin Convention. The type of appeal is determined at the first stage of the asylum process by the Refugee Applications Commissioner (“the Commissioner”). When an applicant receives a Recommendation from the Commissioner s/he is informed of the right to appeal and the requirement to do so within specific statutory time limits depending on the type of appeal. The applicant must specify the grounds of appeal in the Notice of Appeal Form, attach any supporting documentation, the submissions to be made and the authorities to be relied upon. The procedures in each of the three types of appeal are as follows:

Substantive Appeal Cases: Applicants have 15 working days to complete and lodge the Notice of Appeal. These applicants have the option of an oral hearing which they must request on the Notice of Appeal Form. The hearing occurs before a Member of the Tribunal and generally involves the applicant and his/her legal representative, an interpreter and a Presenting Officer from the Commissioner’s office. Witnesses may also attend subject to the agreement of the Tribunal. Oral hearings are held in private. However, the UNHCR can attend for the purposes of observing the proceedings. In the event that an oral hearing is not sought, the substantive appeal will be decided on the papers by a Member.

Manifestly Unfounded Appeal Cases: Applicants have 10 working days to complete and lodge the Notice of Appeal. The principle is that the application for a declaration of refugee status is so obviously unfounded it may be dealt with under an accelerated procedure. Manifestly Unfounded appeals are dealt with on the papers only and no oral hearing is afforded to the applicant.

Dublin Convention Appeal Cases: Applicants have 5 working days to complete and lodge the Notice of Appeal. In these cases the Tribunal decides on appeals against a determination of the Commissioner that an application should be dealt with in another EU country. Applicants do not have the choice of an oral hearing.

The procedure for issuing Decisions is that the Decision of the Tribunal is communicated to the applicant and his/her solicitor (if any) for both substantive and manifestly unfounded appeals. If the decision is to affirm the Recommendation of the Commissioner, the original file, with a copy of the Decision, is transmitted to the Minister. In substantive cases, where the Member of the Tribunal decides to set-aside the Recommendation of the Commissioner, the Tribunal recommends to the Minister that the applicant be given a declaration as a refugee. In a manifestly unfounded case when the Recommendation of the Commissioner is set-aside, the Commissioner is notified and the file is remitted to the Commissioner for further substantive investigation under Section 11 of the Refugee Act, 1996. A Dublin Convention appeal is determined in accordance with the criteria set out in Articles 4 to 8 of the Dublin Convention.

### ***B.1. b New or Amended Laws***

The Refugee Act, 1996 ('the 1996 Act'), as amended, was commenced in full on 20 November, 2000. The Act provides the foundation for meeting Ireland's obligations under the 1951 Geneva Convention to which the State is fully committed. Prior to the coming into force of the 1996 Act, refugee determination arrangements in Ireland were based on administrative procedures agreed between the State and the UNHCR.

The 1996 Act places the procedures for processing applications for refugee status on a statutory footing and it has resulted in the establishment of two independent statutory offices to provide for processing asylum applications:

A Refugee Applications Commissioner: The Commissioner makes recommendations to the Minister for Justice, Equality and Law Reform as to whether a person should be granted or refused refugee status;

A Refugee Appeals Tribunal: This consists of individual independent members to deal with appeals against negative recommendations of the Refugee Applications Commissioner.

The 1996 Act includes a statutory definition of a refugee and provides for an absolute prohibition of *refoulement*. The scope of the Act is wide-ranging, dealing with, *inter alia*, first instance decisions, appeals, right to legal representation, right to consult the UNHCR, family reunification, fingerprinting of applicants over the age of 14 years and detention of applicants in certain circumstances. The provisions of the 1996 Act are kept under constant review and proposals for substantial amendment are under consideration at the present time.

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## **B.2 Analysis and Interpretation of the Asylum Statistics**

### **B.2.A FIRST-TIME ASYLUM APPLICATIONS**

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 phenomenally from 39 to 11,634. The trend since 1997 in the annual number of asylum applications is shown in Table 3. The number of applications for asylum tripled from 3,883 in 1997 to 11,634 in 2002. The outstanding performance of the Irish economy during the 1990s may have

contributed to the rapid increase in the number of asylum seekers as the availability of virtually guaranteed employment for successful applicants is a powerful magnet. Another factor which came into play from 1998 onwards is the change to Article 2 of the Constitution which stated that any person born on the island of Ireland (i.e., Northern Ireland or the Republic of Ireland) is entitled to Irish Citizenship. This change arose out of the 1998 Belfast Agreement between the Irish and British Governments to establish political and legal institutions to underpin a peaceful settlement to the troubles in Northern Ireland. Since the foundation of the Irish State in 1922 citizenship has been granted to all persons born in Ireland. However, this right was provided for only in legislation until the Belfast Agreement. A Supreme Court ruling in 1989 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 combined with the change in the Constitution to grant a right to citizenship of Irish-born children and a right of residency to the child’s parents<sup>2</sup>.

**Table 3: Total Number of First Asylum Applications During the Period 1997-2002**

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

The number of nationals of the main countries from which asylum applicants in 2002 came are shown in Table 4. Almost half of the total number of applicants came from just two countries, Nigeria and Romania. Over a third of the total number of applicants were Nigerians and 14 per cent were Romanians. There was no other country which accounted for more than 5 per cent of the applicants and the percentage coming from the remaining top ten countries shown in Table 4 was much less than this. In total the top ten source countries accounted for about 72 per cent of the total number of applicants for asylum. The remaining 28 per cent of applicants came from a wide range of countries. It is evident from Table 4 that a significant number of applicants were coming from countries considered unlikely to produce Geneva Convention refugees. This issue was addressed in the Immigration Act 2003 which, among other things, made provision for the Minister for Justice to designate ‘safe countries of origin.’ Asylum applicants from these countries are presumed not to be refugees unless they can prove otherwise.

**Table 4: First Asylum Applications by Main Countries of Citizenship, 2002**

	Total
<b>Total</b>	<b>11,634</b>
Nigeria	4,051
Romania	1,679
Moldova, Republic of	535
Zimbabwe	357
Ukraine	351
Poland	314
Ghana	293
Lithuania	284
Congo, the Democratic Republic of the	270
Czech Republic	268
Other	3,232

<sup>2</sup> The Constitutional right to citizenship of an Irish-born child was amended in a referendum in 2004 which provided that at least one of the parents must be an Irish citizen.

New asylum applications in 2002 broken down by age group and sex are shown in Table 5. Nearly 90 per cent of all asylum applicants are in the young age groups 0-17 and 18-35. Almost two-thirds of the total are in the age group 18-35 and approaching a quarter are children aged 0-17. Only 12 per cent of the applicants are middle-aged and virtually none of them are aged 60 years or over.

**Table 5: New Asylum Applications by Age Group and Sex, 2002**

Age Groups	Male	Female	Total
<b>Total</b>	<b>5,773</b>	<b>5,861</b>	<b>11,634</b>
0-17	1,400	1,279	2,679
18-35	3,483	4,044	7,527
36-59	885	510	1,395
60+	5	28	33

While the number of male and female applicants was about the same, the age distribution for each sex was quite different. Almost 70 per cent of female applicants were in the child-bearing age group 18-35 while for male applicants the figure was 60 per cent. Just over one-tenth of asylum applicants in the age group 0-17 were unaccompanied minors. Table 6 shows the age and sex breakdown of unaccompanied minors seeking asylum. Nearly four-fifths of the 288 unaccompanied minors who applied for asylum in 2002 were aged 16 or 17.

**Table 6: Asylum Applications by Unaccompanied Minors, 2002**

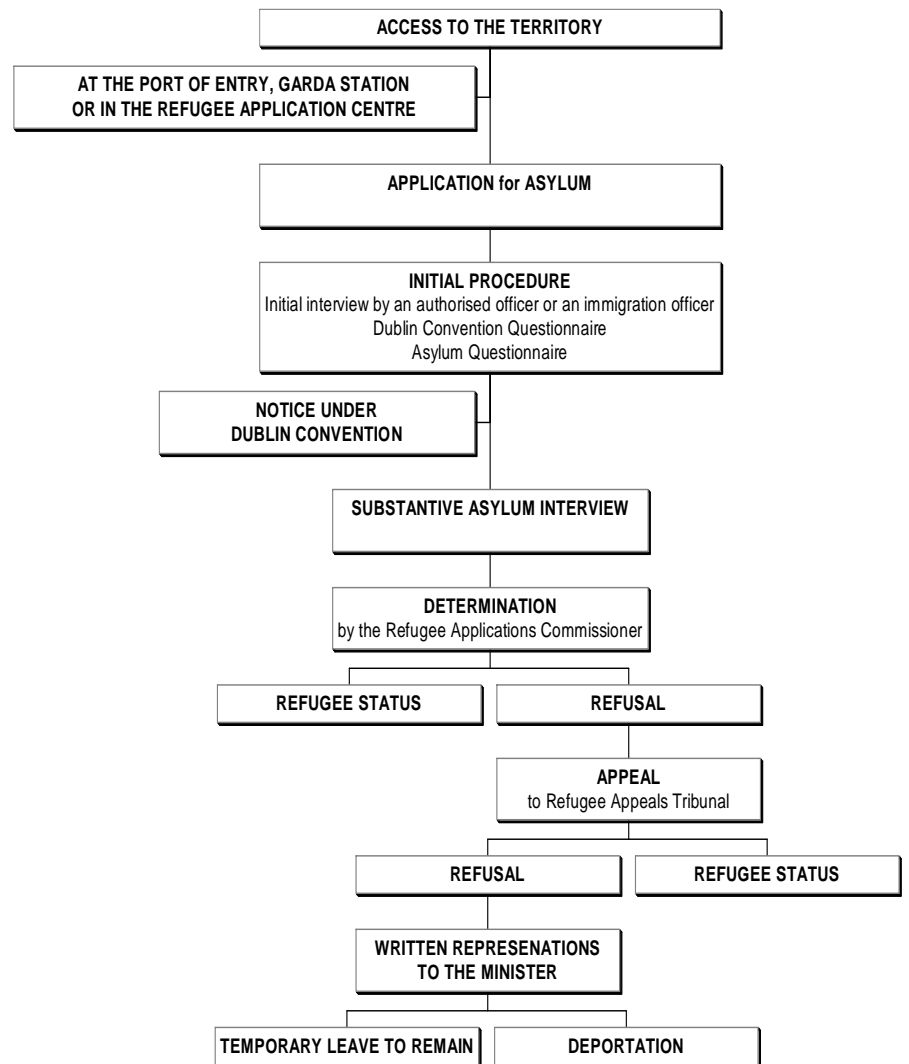
Age Groups	Male	Female	Total
<b>Total</b>	<b>167</b>	<b>121</b>	<b>288</b>
0-13	8	5	13
14	10	5	15
15	19	17	36
16	45	49	94
17	82	45	127
Age unknown	3		3

About the same proportion of the male and female applicants were in these age groups. However, male applicants tended to be older, on average than female applicants with 49 per cent of males being aged 17 versus 37 per cent of females. Some of the applicants are remarkably young to have made their way to Ireland on their own. Approaching two-fifths of male applicants and a quarter of female applicants were unaccompanied minors aged 15 years or less.

### ***B.2.b Positive Decisions***

The asylum application procedure in Ireland is thorough and allows applicant's in receipt of a negative first instance decision from the Refugee Applications Commissioner access to an appeals procedure as Figure 1 shows. The three outcomes which are possible from the appeals process are that a negative recommendation of the Commissioner is upheld, a negative recommendation is set aside and the applicant is granted refugee status, and a manifestly unfounded recommendation is set aside and the case is returned to the Commissioner for full investigation.



**Figure 1: The Asylum Application Procedure in Ireland**

*Source:* Adapted from Mutwarasibo, Fidèle; McCarthy, Michael (2002), *Step by Step: An information resource for members of the new communities*. Canal Communities Partnership. Dublin.

The outcome of all of the decisions on asylum applications which were taken in 2002 is shown in Table 7. The number of decisions taken is greater than the number of applications for asylum in 2002 because of the overhang of cases from previous years. In 2002 only 12 per cent of all decisions on asylum applications resulted in a positive outcome which would entitle applicants to refugee status and to legal residence in Ireland. This outcome was the product of first instance decisions on the initial Application for asylum and first and subsequent appeals against negative decisions of the Refugee Applications Commissioner. The percentage of positive outcomes of first instance decisions in 2002 was 11 per cent while the percentage of negative decisions was 89 per cent. The percentage of positive decisions improved significantly on first appeal to 23 per cent but the great majority of the decisions remained negative, 77 per cent.

**Table 7: Total number of decisions, 2002**

	Total	First Instance	First Appeal	Subsequent Appeal
<b>Total</b>	<b>16,555</b>	<b>8,360</b>	<b>4,699</b>	
Positive decisions	1,992	893	1,099	
Negative decisions	11,067	7,467	3,600	
Other non-status decisions	3,496			

The number of first instance positive decisions made in 2002 on Geneva Convention or humanitarian grounds by country of citizenship is shown in Table 8. Almost one-third of those granted refugee status at the first instance decision came from Zimbabwe and the Democratic Republic of the Congo. About 15 per cent granted refugee status came from Angola, Iraq or Pakistan. The remaining 54 per cent of refugees came from a wide variety of other countries.

**Table 8: Total Number of Positive Decisions (first instance) by Type and Country of Citizenship, 2002**

	Total	Geneva Conv. Stat. Granted	Humanitarian Status and All Other Types of Subs. Protect.
<b>Total</b>		<b>893</b>	<b>3,496</b>
Zimbabwe		159	N/A
DR Congo/ Zaire		125	
Angola		51	
Iraq		43	
Pakistan		36	
Others		479	

## C. Illegal Entry and Return

### C.1 POLICY CHANGES AND LEGAL DEVELOPMENTS IN 2002

#### *C.1.a. Principles of Current Policy on Illegal Immigrants*

Ireland is committed to promoting a policy of legal migration into the State and of effectively tackling the issue of illegal entry. The Garda (Police) National Immigration Bureau which was established in 2000 was further expanded in May 2001 following increasing concern at the extent to which Ireland was being targeted by trans-national organised crime gangs for the purposes of trafficking. The additional resources which the GNIB has received will further enhance its ability to combat trafficking and its continued enforcement of all aspects of immigration legislation including the deportation process.

Non-EEA nationals seeking to enter Ireland are divided into visa required and non-visa required categories. Visa required nationals must obtain a visa prior to arrival in Ireland. Non-visa required nationals are not subject to pre-entry clearance. All non-EEA nationals are subject to immigration controls on arrival at a port of entry. There are a variety of reasons why a non-EEA national may be refused entry. These include not being in a position to be self-supporting or being unable to support accompanying dependants, not being in possession of a valid permit for employment, suffering from a specified disease or disability, having been convicted of an offence punishable by imprisonment for a maximum period of at least one year, not having a valid Irish visa, not being in possession of a valid passport or other document, intending to travel to Great Britain or Northern Ireland where the immigration officer is satisfied that the person would not qualify for admission to Great Britain or Northern

Ireland, the possibility that the person's presence in the State would pose a threat to national security or would be contrary to public policy, there being reason to believe that the person, with intent to deceive, seeks to enter the State for a purpose other than that stated by the person.

In any case of identified illegal entry an Immigration Officer will serve a notice on the person outlining the reason why he or she has been refused leave to land in the State. In the majority of cases the person will be returned immediately on board the ship or aircraft by which he or she has arrived in the State. If it is not possible to remove the person immediately the person may be detained at a place of detention pending arrangements for the removal of the person from the State.

### ***Procedures in case of illegal residence***

An Immigration Officer or Police Officer may arrest a non-national who has failed to register in accordance with Irish immigration law. In any cases of illegal residence a report will be made to the office of the Minister for Justice, Equality and Law Reform. Having given the matter consideration the Minister may send the person a letter outlining the reasons why consideration is being given to the question of deporting the person from the State and affording the person the opportunity to make representations to the Minister as to why he or she should not be deported. Following consideration by the Minister of any representations made by the person a deportation order may be issued. If the person fails to turn up at the Garda National Immigration Bureau or local police station he or she may be arrested and detained for up to 8 weeks pending his or her removal from the State.

The Irish Government's objective is to ensure that those individuals genuinely in need of asylum in the State and who satisfy the definition of refugee in the 1951 Geneva Convention and the Refugee Act 1996 receive that protection as quickly as possible. There is also a corresponding expectation that unsuccessful asylum applicants should return to their country of origin unless there are other protection grounds on which they should remain in the State. The Irish policy on deportation is based on the interests of the common good and upholding the immigration laws of the State. Ireland prefers voluntary return as an option over forced deportation of refused asylum seekers and affords them the opportunity to return voluntarily rather than being deported. However, a policy of compulsory return is seen as essential to protect the integrity of the asylum process.

Unsuccessful asylum applicants are notified that the Minister proposes to make a deportation order in respect of them under the power given to him by Section 3 of the Immigration Act 1999. There are three options given to the unsuccessful asylum applicant:

- (a) In accordance with Section 3 of the Immigration Act, 1999, an entitlement to make written representations within 15 working days of the sending of this letter to the Minister for Justice, Equality and Law Reform setting out any reasons as to why the applicant should be allowed to remain in the State;
- (b) The applicant may leave the State before the Minister decides whether to make the order and, if s/he decides to do this, s/he is required to so inform the Minister in writing and to furnish him/her with information concerning the arrangements for leaving;
- (c) The applicant may consent to the making of the deportation order within 15 working days of the sending of this letter and, if s/he does this, the Minister shall arrange for her/his removal from the State as soon as practicable.

The different types of return to the source country include Enforced or Consensual Deportation, Independent Voluntary Return facility operated by the Department and an Assisted Voluntary Repatriation programme operated

by the International Organization for Migration (IOM) on behalf of the Department of Justice, Equality and Law Reform. The IOM pilot programme is specifically directed at assisting the voluntary return of Romanians and Nigerians, but is open to other nationalities in exceptional circumstances. A new programme for nationals of the former CIS states was scheduled to commence in late 2002. Under this programme the IOM provides practical assistance both pre- and post-departure to the returnees and arranges and pays for their air tickets. The IOM pilot programme is intended to assist permanent and sustainable return, although there is no prohibition on persons returning legally to Ireland where there is no deportation order in respect of them.

### ***C.1.b New or Amended Laws***

The legislative and administrative measures which have recently been introduced to deal with illegal immigration include the following:

The Immigration Act, 1999: This deals with deportation orders;

The Garda National Immigration Bureau was established in May, 2000 as a central enforcement authority in relation to all matters pertaining to immigration in Ireland.

The Illegal Immigrants (Trafficking) Act 2000: This creates offences in relation to the facilitation of illegal immigration. It provides for imprisonment of up to 10 years and unlimited fines for those involved in the trafficking or smuggling of illegal immigrants for gain into Ireland;

The Immigration Bill 2002: This provides for carriers liability. It will introduce fines on those carriers who do not adequately check that passengers have the required immigration documentation (normally a passport, and in some cases a visa) when seeking to enter the State.

## **C.2 ANALYSIS AND INTERPRETATION OF THE ILLEGAL ENTRY/RETURN STATISTICS**

### ***C.2.a General Trends: Refused Aliens***

The total number of people who were refused refugee status in 2001 and 2002 is shown in Table 9. In 2001 the number of refusals amounted to about 5,500 and in 2002 it increased slightly to around 5,600.

**Table 9: Total Number of Refused Aliens During the Period 1997-2002**

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

The nationality of aliens who were refused entry in 2002 is shown in Table 10. The table shows that 43 per cent of those refused entry in 2002 came from Eastern European countries and that the largest groups were from Romania, Poland and Lithuania. The fact that so many applicants were refused entry in 2002 and earlier years contributed to the decision of the Government to designate 'safe countries of origin' in the Immigration Act 2003.

**Table 10: Refused Aliens by Main Country of Citizenship, 2002**

	<b>Total</b>
Total	5,647
Romania	805
Nigeria	561
Poland	435
Lithuania	394
Zimbabwe	351
Moldova, Republic of	335
Unknown	296
Czech Republic	292
South Africa	253
Latvia	168
Others	1,757

**C.2.b General Trends: Apprehended Aliens**

The number of illegal aliens apprehended during the period 1997-2002 is shown in Table 11. In 1997 there were only 6 illegal aliens taken into custody but the number increased rapidly to 52 in 2001 and 115 in 2002. There is no statistical information available for 2002 on the main countries of citizenship from which the apprehended aliens came.

**Table 11: Annual Totals of Apprehended Aliens Illegally Present During the Period 1997-2002**

	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
Number of apprehended aliens	6	24	24	25	52	115

**C.2.c General Trends: Aliens Removed**

The annual total of removed aliens during the period 1999-2002 is shown in Table 12. As in the case of apprehended aliens there was a rapid build up in the number of aliens who were removed from 6 in 1999 to 364 in 2001 and to 521 in 2002.

**Table 12: Annual total of Removed Aliens During the Period 1997-2002**

	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
Number of removed aliens			6	186	364	521

**C.2.d Countries of Origin**

The nationality of the 521 aliens removed during 2002 is shown in Table 13. Two thirds of those who were removed during 2002 were citizens of countries in Eastern Europe. Over a quarter of the total removed were from Romania and one-eighth were from the Czech Republic. Citizens of Nigeria and China accounted for about 9 per cent and 4 per cent respectively of total removals.

**Table 13: Total Removed Aliens by Main Countries of Citizenship, 2002**

	<b>Total</b>
<b>Total</b>	<b>521</b>
Romania	128
Czech Republic	66
Poland	63
Nigeria	46
Moldova	24
China	19
Kosovo	19
Bulgaria	17
Latvia	15
Lithuania	13
Others	111