



# EUROPEAN MIGRATION NETWORK

## MIGRATION AND ASYLUM IN IRELAND: SUMMARY OF LEGISLATION, CASE LAW AND POLICY MEASURES AND DIRECTORY OF ORGANISATIONS, RESEARCHERS AND RESEARCH 2005

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## ABBREVIATIONS AND IRISH TERMS

Dáil	Parliament, lower House.
Gardaí/Garda Síochána	Police
GNIB	Garda National Immigration Bureau
ICLMD	Irish Current Law Monthly Digest
ILRM	Irish Law Reports Monthly
IR	Irish Reports
NCCRI	National Consultative Committee on Racism and Interculturalism
ORAC	Office of the Refugee Applications Commissioner
Oireachtas	Parliament, both houses
PPSN	Personal Public Service Number
RAT	Refugee Appeals Tribunal
Tánaiste	Deputy Prime Minister
Taoiseach	Prime Minister
UN	United Nations

# 1. INTRODUCTION

This document is the third update of the summary of information collated by the Irish Contact Point of the European Migration Network (EMN). This Network was established to provide the European Commission and Member States with objective, reliable and comparable information on migration and asylum in the European Union. This information will facilitate an overall view of the migration and asylum situation across the Community and its Member States.

The EMN initiative is being jointly funded by the EU Commission and Justice Ministries in individual Member States. During the period since the Networks inception in mid-2002 individual National Contact Points have been set up in Member States and preliminary work on the Network has been carried out. The Economic and Social Research Institute (ESRI) has been designated as the Irish Contact Point.

The ultimate objective of the EMN is to make information such as that presented here from each of the participating states, accessible to the public via a central website ([www.european-migration-network.org](http://www.european-migration-network.org)). Information on the activities of the EMN and on other participating National Contact Points may be obtained from the central EMN website or the EMN page on the ESRI website ([www.esri.ie](http://www.esri.ie)).

By organising and structuring currently disparate data the EMN will enhance exchanges between the sources and users of the information. The Network will thus contribute to more informed planning, policies and action, and more meaningful co-operation within the EU and externally with the countries of origin. Although it will not engage in basic data collection, it is intended that the EMN will provide an effective tool for research and analysis of data already in existence. Annual research reports and small-scale studies are prepared using existing data. These reports are available to download at the web addresses supplied above.

The report reviews (in Sections 2 to 6) the important political, legal, demographic, economic and social information relevant to migration and asylum in Ireland. Contact was made with the various sources of information in Ireland and with those bodies (both public and voluntary) concerned with migration issues. This framework of links is key to the activities of the Irish Contact Point of the EMN. The details of these 'core contacts' are provided in Sections 7 and 8. Relevant research is listed in Section 9. The information included in this report will continue to be expanded upon, updated and loaded into the central EMN website as the Network develops.

# 2. RECENT POLICY MEASURES ON MIGRATION AND ASYLUM IN IRELAND

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## 2.1 Immigration Policy Measures

Until recently the basic legislation governing the entry and residence of non-nationals in Ireland was the Aliens Act 1935 and the Aliens Order 1946 as amended. In addition, the regulations implementing the EU Rights of Residence Directives came into effect after Ireland joined the European Union in 1973. The general perception was that there was little need to introduce new legislation in view of the small number of immigrants and foreign residents involved. However, the rapid increase in the immigration of non-nationals and the large influx of asylum seekers since the mid-1990s has created an entirely new situation. The recent legislative measures introduced to deal with immigration and asylum issues in Ireland include:

- The Refugee Act, 1996
- The Immigration Act, 1999
- The Illegal Immigrants (Trafficking) Act, 2000
- The Immigration Act, 2003
- The Employment Permits Act, 2003
- The Immigration Act, 2004

The 1996 Refugee Act codifies in law the provisions for dealing with applications for asylum: it also provides the legal basis for the Office of the Refugee Applications Commissioner (ORAC) and the Refugee Appeals Tribunal. These agencies, while independent, operate under the aegis of the Department of Justice, Equality and Law Reform, which has primary responsibility for immigration policy. The 1999 Immigration Act re-instituted the process of deportation on a legal footing after a successful court challenge. The 2004 Immigration Act is a response to a further court challenge on a related issue. It sets out in primary legislation many of the immigration controls previously contained in the 1946 Alien's Order. The 2000 legislation, as the title indicates, deals with trafficking in human beings, while the Immigration Act 2003 introduces carrier liability for transporting in undocumented immigrants and contains a substantial number of amendments to the 1996 Refugee Act.<sup>1</sup> The 2003 Employment Permits Act provides a separate and more comprehensive codification in law covering issues related to work permits and working visas. The relevant Government departments are

<sup>1</sup> The Immigration Act 2003 and the Immigration Act 2004 caused some controversy in the manner in which they passed through the legislative process. The former contained a large number of amendments introduced at a late stage in the legislative process while some alleged the speed with which latter was rushed through parliament prevented thorough consideration. The Government has stated that the current situation in relation to immigration and asylum warrants such urgency.



also engaged in producing new comprehensive immigration and residence legislation as noted at Section 4.1.1.

Further details of the content of these Acts and other relevant Acts are contained in Section 4. Section 5 contains summaries of the outcomes of important judicial decisions related to immigration and asylum. The following commentary summarises the main policy measures that have been initiated in recent years, which were deemed necessary to deal with issues arising from earlier legislative, judicial or administrative actions.

### **2.1.1 WORK PERMITS/WORKING VISA AUTHORISATIONS**

The Department of Enterprise, Trade and Employment have recently introduced a new Employment Permits Bill (see Section 4.1.2). The Bill is partly a response to reports of exploitation of migrant workers. If the legislation is enacted work permits will be granted to the employee rather than the employer, although the latter would still make the application for a work permit. Recruitment related deductions could no longer be made to an employee's pay and the retention by the employer of the employee's personal documents would be explicitly prohibited. The Bill also provides for more flexible working arrangements for highly skilled non-EEA workers.

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<sup>2</sup> to fill any positions arising. In April 2003 the Department also introduced a 'fast track' list of occupations. Vacancies arising within these occupations are deemed unlikely to be filled by EEA nationals therefore applications for work permits are processed more quickly. In February 2004 new arrangements were put in place to facilitate the employment of the spouses of non-EEA nationals holding working visa/authorisations in Ireland. The Minister of Enterprise, Trade and Employment drew particular attention to the problem of attracting and retaining nurses from non-EEA countries to a country where their spouses cannot work. The restrictions on work permits described above do not apply to the spouses of such workers. (See Department of Enterprise, Trade and Employment, February 2004; April; August 2003).

### **2.1.2 CARRIER LIABILITY**

Carrier liability was introduced in the Immigration Act 2003. Carriers are required to check that individuals have appropriate documentation before allowing that person to board a vehicle, they are required to check that all persons on board disembark in compliance with directions given by immigration officers, and that all persons are presented to immigration officers. The UNHCR has agreed that carriers' sanctions can be used as a legitimate means of limiting illegal immigration. However, they also argue that such measures may impede the access of persons at risk of persecution to safety (UNHCR, 2003). The Government argued that the measures are necessary for Ireland to meet its obligations under the Schengen Agreement.

### **2.1.3 NON-EEA STUDENTS**

In the period between April 2000 and December 2004 all non-EEA students in Ireland could work 20 hours per week during term and work full time during vacation. In December 2004 the Minister for Justice, Equality and Law Reform introduced new restrictions on the access of non-EEA students to the Irish labour market. Now only students who are pursuing courses which are of

<sup>2</sup> The national training and employment agency.

at least one year's duration and which lead to a 'recognised qualification'<sup>3</sup> may enter the Irish labour market. The changes were introduced to eliminate the problem of people coming to Ireland as students to circumvent labour migration controls and procedures (see Department of Justice, Equality and Law Reform, December 2004).

#### 2.1.4 HABITUAL RESIDENCY CONDITION

A Habitual Residency Condition was introduced in a late amendment to the Social Welfare Miscellaneous Provisions Act, 2004. It restricts access to social assistance and Child Benefit. The basic requirement for a person to be deemed 'habitually resident' is to have been resident in Ireland or the UK for a continuous period of two years before making an application for social welfare. The Minister for Social and Family Affairs indicated that although the test applies to all persons it is intended to protect the Irish welfare system from 'welfare tourism' within the EU. Having regard to a range of other factors (e.g. length/continuity of residence; employment prospects; reasons for coming to Ireland; future intentions and centre of interest (e.g. family)) it is argued that people with a valid 'connection' with Ireland will still be able to access social welfare.

The introduction of the Habitual Residency Condition has also affected asylum seekers. Many asylum seekers who would previously have been entitled to Child Benefit and certain social assistance payments (e.g., One Parent Family allowance, Disability Allowance and Social Welfare Allowance) may no longer claim them if they entered the State after May 1<sup>st</sup> 2004. The Habitual Residence Condition does not apply to Exceptional Needs Payments<sup>4</sup> which asylum seekers may therefore continue to receive along with their weekly payments. Due to concerns expressed by interest groups regarding hardship caused by the Habitual Residency Condition the Minister for Social and Family Affairs has agreed to review the condition.<sup>5</sup>

#### 2.1.5 IRISH NATURALISATION AND IMMIGRATION SERVICE

In March 2005 it was announced that a new executive office, intended to streamline immigration services, would be established within the Department of Justice, Equality and Law Reform. This new unit will be known as the Irish Naturalisation and Immigration Service (INIS). It is planned that the Visa Section of the Department of Foreign Affairs will move to INIS<sup>6</sup> and that a new system will be developed linking visas and the work permit system at the Department of Enterprise, Trade and Employment. The stated aim of the development is to improve service times and provide a more transparent and efficient service. INIS will also include a new Immigrant Integration Unit which is intended to promote the integration of 'lawful immigrants into Irish economic and cultural life' (Department of Justice, Equality and Law Reform, March 2005).

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## 2.2 Asylum Policy Measures

As Table 5 shows the number of people applying for asylum in Ireland has dropped significantly from over 11,600 in 2002 to less than 4,800 in 2004 – a fall of almost 60 per cent. UNHCR data indicates that this pattern of steep

<sup>3</sup> A "recognised qualification" will arise from a course recognised by an Irish University, the Dublin Institute of Technology, HETAC or FETAC.

<sup>4</sup> Exceptional Needs Payments are once-off payments made to asylum seekers under the Social Welfare Allowance scheme towards the cost of necessary travel, clothes, prams and baby baths etc.

<sup>5</sup> *The Irish Times*, Friday 25<sup>th</sup> February 2005, "Minister reviews bar on welfare benefits".

<sup>6</sup> Responsibility for the provision of visa services at diplomatic and consular missions abroad will remain with the Department of Foreign Affairs.

decline can be found across almost all industrialised countries. The number of applications submitted in the EU15 countries declined by 21 per cent between 2003 and 2004. Asylum applications lodged in the 'new' EU10 countries increased in the same period but only by 4 per cent compared to 16.5 per cent between 2002 and 2003 (UNHCR, 2004; 2005). However, the decline in asylum applications lodged in Ireland is particularly steep. There have been a number of policy changes that may have contributed to this trend that will be discussed below.

### **2.2.1 PRIORITISED CASES AND SAFE COUNTRIES OF ORIGIN**

Under amendments to the 1996 Refugee Act contained in the 2003 Immigration Act the Minister for Justice, Equality and Law Reform was empowered to issue prioritisation directives to the Office of the Refugee Applications Commissioner (ORAC) and the Refugee Appeals Tribunal (RAT) for certain categories of applicants including apparently unfounded claims, apparently well-founded claims and cases of family reunification. A prioritisation directive requires ORAC and RAT to deal with the specified category of cases as soon as possible.

The Minister directed that priority should be accorded to applications made by persons from "safe countries of origin".<sup>7</sup> Applicants for asylum from such designated countries must rebut the presumption that they are not in need of refugee protection. The RAT makes decisions on the basis of papers alone rather than with an oral hearing. In deciding whether to make a 'safe country of origin' designation, the Minister considers whether the country is party to certain international human rights instruments, whether it has a democratic political system and an independent judiciary, and whether it is governed by the rule of law. The requirement to take account of whether a State is party to and generally complies with the "...Convention Against Torture, the International Covenant on Civil and Political Rights, and, where appropriate, the European Convention on Human Rights..."<sup>8</sup> is welcomed by many as an improvement on the "manifestly unfounded" system under which all countries party to the Geneva Convention were assumed to be safe. On 11<sup>th</sup> December 2003 the Minister also stated that priority should be accorded to applications and appeals made by Nigerian nationals.

In January 2005 the Minister announced further new measures designed to speed up the asylum and deportation process in respect of prioritised cases. The aim is to reduce the duration of initial application and appeal to three weeks for each process. Applicants may be housed in dedicated accommodation centres for prioritised cases, they will have statutory obligations placed on them to reside and report daily to immigration officers. Failure to comply with such obligations is an arrestable offence. Unsuccessful asylum applicants will, therefore, be more readily available to Immigration Authorities/Garda National Immigration Bureau for removal from the State (See Department of Justice, Equality and Law Reform, January 2005a).

### **2.2.2 ACCELERATED PROCEDURES**

In addition a more streamlined accelerated procedure was introduced at appeal stage aimed at those applicants found not to be refugees at first instance and whose cases display certain features considered to be indicative of abuse of the asylum process including a delay in making an application for asylum without reasonable cause and manifestly unfounded claims. This system replaced the

<sup>7</sup> By way of an Order dated 15 September 2003 the Minister designated the following countries as safe countries of origin: the ten Accession States, Bulgaria and Romania. On 15 November 2004, the Minister further designated Croatia and South Africa as safe countries of origin, with effect from 9 December 2004.

<sup>8</sup> Refugee Act 1996 as amended by the Immigration Act 2003.

manifestly unfounded procedure. In the case of a negative decision by the ORAC, where the decision includes a finding listed in the new Section 13 of the Refugee Act,<sup>9</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 this period of appeal to four working days for certain categories of applicants although this power has not been exercised to date. In these cases the RAT may no longer remit cases to the ORAC for investigation i.e., the Tribunal may not set aside a negative decision of the ORAC unless it is satisfied the person is a refugee (see RAT, 2004, pp. 7-8).

### 2.2.3 OBLIGATION TO PARTICIPATE

The problem of poor participation posed serious management and resource challenges to ORAC staff during 2002 and 2003 (ORAC, 2003, p. 15). Amendments to the Refugee Act introduced in the Immigration Act 2003 now 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 failing 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 withdrawn or deemed withdrawn in this way, representing 17 per cent of total recommendations issued in the year (see ORAC, 2004, 19).<sup>10</sup> In 2004, 1,554 cases were withdrawn or deemed withdrawn under the new regulations (see ORAC, 2005, p. 34). The new regulations appear to have improved participation. By the end of 2004, excluding interviews postponed by ORAC, applicants attended in 72 per cent of cases. This compares with an overall attendance rate of 66 per cent for all interviews scheduled during 2003 (see ORAC, 2005, p. 16).

### 2.2.4 CREDIBILITY OF APPLICANTS

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. Asylum seeker support groups and other commentators argue that there is potential for *refoulement*<sup>11</sup> in too much emphasis on credibility. They argue that there is increasing emphasis on immigration control rather than protection in asylum policy and they stress the importance of maintaining the principle of benefit of the doubt (Mullally, 2003; Irish Refugee Council, June 2003).

<sup>9</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.

<sup>10</sup> Note that the figure for the total number of recommendations used here is 9,552. This figure includes 911 cases that for administrative reasons could not be fully processed in previous years. The official figure for the number of cases processed to completion by the ORAC in 2003 is 8,641.

<sup>11</sup> The principle of *non-refoulement* is one fundamental to refugee protection whereby a person will not be returned to a place where their life or liberty may be threatened.

### 2.2.5 RENT SUPPLEMENTS

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

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## 2.3 Racism

The National Consultative Committee on Racism and Interculturalism (NCCRI) compiles six-month reports on racist incidents<sup>12</sup> reported in Ireland. The last report (May 2004 to October 2004) indicated an increase in reported incidents (70) both on the previous period and the equivalent period in 2003 (42 and 46 incidents respectively) (NCCRI, May 2003 – October 2004). Garda National Immigration Bureau statistics indicate a slight increase in racially motivated incidents on a calendar year basis in 2003 (62 incidents) and 2004 (67 incidents).

There have been a number of significant developments in relation to anti-racism policy in Ireland, most notably the publication of the government's National Action Plan Against Racism (NPAR) in January 2005. The publication of this Plan followed a consultative process which involved the government, the social partners, representatives of minority ethnic groups, the Traveller community and other stakeholders. The Plan is underpinned by the following principles: protection, inclusion, provision, recognition and participation. Under each of these broad objectives there is a range of anticipated outcomes (see Department of Justice, Equality and Law Reform, February 2005). The Plan also includes a Final Report and Review of the National Anti-Racism Awareness Programme 2001-2003 known as "Know Racism". In January 2005 the Minister for Justice, Equality and Law Reform announced the fifth "Know Racism" grant scheme under which organisations working towards the objectives of the NPAR may receive funding (see Department of Justice, Equality and Law Reform, January 2005c).

The development of Ireland's anti-racism policy was also enhanced in 2004 by the enactment of the Equality Act 2004 which transposed the EU Race Directive and the Framework Directive in July 2004. Ireland's First Report to the United Nations under the Convention for the Elimination of All Forms of Racial Discrimination (CERD) was submitted in March 2004. The Report sets out the legislative, judicial, administrative and other measures that have been taken to combat discrimination in Ireland. The Report was examined by the CERD Committee in March 2005. In February 2005 the NGO Alliance launched a Shadow Report to Ireland's first report. The authors of the Shadow Report allege the government underestimates the level of racism experienced by Travellers, black and other ethnic minorities (NGO Alliance, November 2004).

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## 2.4 Irish Born Children, Citizenship and Residency

There were significant policy developments in relation to non-nationals and Irish citizenship in the past year. Since the foundation of the Irish State citizenship has been granted to all persons born on the territory. Prior to the 1998 Belfast Agreement 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,

<sup>12</sup> The incidents reported relate to: assaults, abuse and harassment; delivery of public and private services; and misinformation and circulation of offensive material.

company and parentage” of his or her family in the State.<sup>13</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 to Irish children ceased to automatically gain residency.<sup>14</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. During 2004 the case of *Chen v UK* was ruled upon at the European Court of Justice (ECJ). The Court found that Ms. Chen, a Chinese national, has the right to reside anywhere in the EU with her Irish-born (and therefore Irish citizen) child.<sup>15</sup> The *Chen v UK* case was interpreted by the Irish Government as evidence of an urgent need for citizenship to be linked to *jus sanguinis* (the principle of citizenship based on blood descent). Ireland was then the only country in the EU to grant citizenship on the principle of *jus soli* (place of birth) alone. It was argued that both within and outside the asylum framework large numbers of non-EEA nationals were coming to Ireland to give birth. This argument was supported by evidence that almost 60 per cent of female asylum seekers aged 16 years and over were arriving in Ireland while pregnant (see Department of Justice, Equality and Law Reform, April 2004b).

A referendum was held in June 2004 on the question of a Constitutional amendment. The referendum was passed by a large majority of voters (79 per cent) and turnout was high at 60 per cent. The amendment provides a constitutional entitlement to citizenship only to a child who has one parent who is, or who is entitled to be an Irish citizen. The amendment also reinstates the power of the Oireachtas (parliament) to legislate on the acquisition of citizenship. The Irish Nationality and Citizenship Act 2004 was subsequently enacted to give effect to the Referendum result. This Act provides that any person born in Ireland after 1<sup>st</sup> January 2005 to non-Irish parents will not be entitled to be an Irish citizen unless one of the parents was lawfully resident in Ireland for at least three out of the four years preceding the child’s birth. Certain types of temporary residence do not count towards reckonable residence for example periods spent as an asylum-seeker or student.

In January the Department of Justice, Equality and Law Reform clarified the position of the non-national parents of Irish-born children who had had their residency claims suspended in July 2003. Such persons were invited to resubmit an application for permission to remain between January and March 31<sup>st</sup> 2005. Minister McDowell said “Persons of good character who give honest and complete details of their residence in Ireland with their Irish-born children and make the necessary statutory declaration can expect to be granted permission to remain within a matter of weeks”. Persons must have been normally resident in the State with their child and there will be no family reunification entitlements given to those people who are granted permission to

<sup>13</sup> *Fajjonu v. The Minister for Justice* [1990] 2 I.R. 151.

<sup>14</sup> *Lobe v. Minister for Justice, Equality and Law Reform* [2003] IESC 1 (23 January 2003).

<sup>15</sup> Ms Chen travelled from China and went to Belfast in order to give birth to an Irish citizen child. She then applied for the right to live in the UK with her child. When the British Home Secretary denied her residency she appealed the decision to the European Court of Justice (Case C-200/02).

remain (Department of Justice, Equality and Law Reform, January 2005b). There were 14,395 residency applications made under this scheme by mid-March.<sup>16</sup>

<sup>16</sup> “Date for residency applications extended”, *The Irish Times*, March 18<sup>th</sup> 2005.

# 3. STATISTICS

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## 3.1 Some Conceptual Issues

This section contains a description of the range and nature of the available statistics on migration. It contains some summary data for recent years and thus provides a useful background to some of the other issues covered in this report (e.g. policy developments, legislation etc.).

Before giving a detailed description of the available Irish statistics on migration it is appropriate to refer briefly to some important conceptual questions related to the wider question of defining migration and measuring migratory flows generally.

Much work has been done by international agencies (especially by the United Nations) in endeavouring to promote the availability of appropriate or relevant migration statistics through formulating concepts and definitions and striving to establish standardised data collection procedures.<sup>17</sup> In a definitional sense, the UN aim is to account for all categories of persons crossing international borders, *regardless of nationality, place of birth or place of residence*.<sup>18</sup> The criterion of “duration of stay” in the country of immigration or emigration, in association with the concept of residence, is used as a basic provision in forming a distinction between “migrants” and “non-migrants”. The latter cover such categories as tourists, short-term business travellers, frontier workers, pilgrims, nomads etc.

The UN recommendations distinguish two basic categories of migrant – long-term and short-term. These are defined as follows:

A long-term migrant is a person who moves to a country other than that of his or her usual residence for a period of at least one year, so that the country of destination effectively becomes his or her new country of residence.

A short-term migrant is a person who moves to a country other than that of his or her usual residence for a period of at least 3 months but less than a year (12 months) except in cases where the movement to that country is for reasons of recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimage.

While these definitions have not been widely adopted, especially in regard to administrative-based data, they provide a useful benchmark and focus for further efforts towards harmonisation. It is appropriate, therefore, that these concepts should be adopted as a basis in the context of the EMN. In this regard it is reassuring to note that they are used to form the basic definition of migration in the draft Community legislation on statistics of migration and asylum currently in circulation.<sup>19</sup>

<sup>17</sup> UN (1998a). *Recommendations on Statistics of International Migration*, Revision 1. Statistical Papers Series M, No. 58. United Nations, New York.

<sup>18</sup> Country of residence is defined as the country where a person lives, that is to say, where the person has a place to live where he or she normally spends the daily period of rest.

<sup>19</sup> In May 2005 the European Commission adopted a communication to present an action plan for the collection and analysis of EU Statistics in the field of migration. The action plan includes measures to improve the quality, timeliness and comparability of these statistics (see COM (2003) 179(01)).



It is recognised, of course, that in many instances analytical work is concerned with specific categories of migrants, such as non-nationals, asylum seekers or seasonal workers. However, the reasoning behind having a more comprehensive basic definition derives from the fact that all the components of migration flows have an economic or social impact. This applies, for example, in the case of the labour market (e.g., the affects of migration in augmenting or diminishing labour supply) and in the health and education areas where, in particular, rising immigration (from whatever source) has implications for the levels of provision required in these areas.<sup>20</sup>

It is clear from published material that some countries regard the term “immigrant” as applying only to non-nationals, and others to the even more restricted group of non-EU nationals. However, the inflows of returning nationals are significant for all EU countries. Hughes and Quinn (2004) used data from Population and Migration Estimates on the country of origin of immigrants in conjunction with data on the nationality of immigrants to split the inflow into returning Irish migrants and other nationalities. According to the analysis returning Irish made up 68 per cent of immigrants in 1991. By 1996 the inflow was divided 45:55 between return migrants and non-Irish nationals. By 2004 the proportion of returning migrants had fallen to 26 per cent.

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## 3.2 Irish Migration Statistics

Statistics on external migration in Ireland can be categorised under four main headings:

- (1) Aggregate inflows and outflows compiled annually by the Central Statistics Office (CSO).
- (2) Data on Work Permit applications for non-EEA citizens derived from the administrative records of the Department of Enterprise, Trade and Employment (DETE).
- (3) Data on asylum seekers as compiled by the Department of Justice, Equality and Law Reform (DJELR) and its satellite agencies.
- (4) Information on registrations of non-EEA citizens (GNIB).

It is intended that when the EMN is fully operational statistics on all of these aspects will be included in the Network database.

### 3.2.1 GLOBAL MIGRATION ESTIMATES

The aggregate or global CSO data, which covers all movements relating to both Irish citizens and non-nationals, provide annual estimates of migratory inflows and outflows classified by aspects such as age, sex, nationality, country of origin/destination etc. This source also provides population stock estimates classified by nationality.

There are, however, constraints on the level of detail that can be shown under these headings as the relevant estimates are derived from sample surveys (mainly the *Quarterly National Household Survey (QNHS)*). The immigration data are obtained by means of ‘recall questions’ which seek information on both the current location of residence for each respondent and where he or she was living one year earlier. Tables 1 and 2, which show annual gross emigration and immigration flows from 1990 to 2004, and inflows classified according to broad nationality groups for the same period, provide examples of this output.

<sup>20</sup> The nature of the additional provision would, of course, be dependent on the composition of the flows.

**Table 1: Gross and Net Migration Flows, 1992-2004**

Year (ending April)	Outward	Inward (000s)	Net
1992	33.4	40.7	+7.4
1993	35.1	34.7	-0.4
1994	34.8	30.1	-4.7
1995	33.1	31.2	-1.9
1996	31.2	39.2	+8.0
1997	25.3	44.5	+19.2
1998	28.6	46.0	+17.4
1999	31.5	48.9	+17.4
2000	26.6	52.6	+26.0
2001	26.2	59.0	+32.8
2002	25.6	66.9	+41.3
2003	20.7	50.5	+29.8
2004	18.5	50.1	+31.6

Source: CSO (2004). Population and Migration Estimates, April 2004.

**Table 2: Gross Immigration Flows by Nationality, 1992-2004**

Year (to April)	Irish	UK	Other EU %	USA	Other	Total	Numerical Total (000)
1992	62.7	15.8	10.1	4.1	7.3	100	40.7
1993	57.6	17.0	9.5	7.2	7.5	100	34.7
1994	55.8	20.9	11.0	6.6	5.6	100	30.1
1995	56.4	18.6	10.3	4.8	9.9	100	31.2
1996	45.2	21.2	12.8	10.2	10.7	100	39.2
1997	46.7	18.9	12.4	9.4	12.4	100	44.5
1998	52.8	18.7	13.3	5.0	10.2	100	46.0
1999	54.6	16.8	14.1	5.1	9.2	100	48.9
2000	47.1	16.0	15.6	4.8	16.3	100	52.6
2001	44.6	15.3	11.0	6.3	23.1	100	59.0
2002	40.4	11.1	12.1	4.0	32.4	100	66.9
2003	34.7	13.7	13.7	3.2	35.0	100	50.5
2004	33.7	11.8	21.2	3.6	29.7	100	50.1

Source: CSO (2004). Population and Migration Estimates, April 2004.

In regard to measuring overall migration flows, other possible alternative sources, e.g., administrative procedures, are of limited use in Ireland. This arises as a result of the free travel area between Ireland and the United Kingdom and the fact that only minimal restrictions apply to the movement of EEA citizens when moving between countries within the European Union. This means, in effect, that such movements are not recorded. Basically, therefore, the administrative sources can provide information on the movement of non-EEA citizens only.

### 3.2.2 WORK PERMIT DATA

The Irish Work Permit Programme, which is administered by the Department of Enterprise, Trade and Employment under the terms of the Employment Permits Act 2003, applies to all engagements for financial gain involving non-EEA citizens, including those of short duration. The system is employer based and the initiative must be taken by the employer in the first instance to obtain the permit prior to the entry of the employee into the State. The application must relate to a specific job and to a named individual. The permits, which are issued for one year with the possibility of renewal, are intended to relate to posts that cannot be filled by Irish or other EEA nationals.

The range of statistical information available from this source is substantial. Tabulations involving sex, age, nationality, industry, occupation, wage rates and region are available and can be made available for inclusion in the central EMN database when this section is operational. Tables 3 and 4, which show annual aggregate data for first applications and renewals for the period from 2000 to 2004, as well as a classification by broad nationality groups, provide examples of the material involved.

**Table 3: Total Work Permits Issued and Renewed, 1999-2004**

Year	2000	2001	2002	2003	2004
			<b>No.</b>		
New Permits	15,434	29,594	23,326	21,965	10,020
Permits Renewed	2,271	6,485	16,562	25,039	23,246
Group Permits	301	357	453	547	801
Total	18,006	36,436	40,321	47,551	34,067
Percentage Renewed		36.0	45.5	62.1	48.9

*Note:* The percentage renewed is calculated on the basis of the total for the previous year.

**Table 4: Work Permits Issued and Renewed by Nationality, 2000-2004**

Country, Region	2000	2001	2002	2003	2004
			<b>No.</b>		
USA, Canada	1,851	1,470	1,096	1,265	1,196
Australia	768	1,098	1,116	1,149	908
India	644	757	845	1,030	1,253
Japan	176	205	197	209	235
Pakistan	468	821	840	830	846
Philippines	991	2,472	3,255	4,042	4,301
South Africa	637	2,305	2,273	2,468	2,031
Baltic States	3,351	8,346	8,594	9,723	2,750
Other EU Accession States	2,322	4,984	5,131	6,883	2,252
Other Eastern Europe	2,351	6,662	8,562	9,974	7,978
Other Countries	4,447	7,326	8,412	9,976	10,317
Total	18,006	36,446	40,321	47,549	34,067

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

website. <http://www.entemp.ie/publications/labour/2004/permitsbynationality.doc>

*Note:* The EU Accession States that joined in May 2004 comprise Estonia, Latvia, Lithuania, the Czech Republic, Cyprus, Hungary, Poland, Malta, Slovakia and Slovenia.

Until recently the number of workers entering the country with such permits was small and did not change very much over the years. However, as a consequence of the booming labour market, the number of permits issued escalated in the late 1990s. The total number of work permits rose from just under 6,000 in 1998 to over 47,000 in 2003. The number of permits issued to Accession State nationals was significant. The fact that such workers no longer need permits explains some of the drop in permits issued between 2003 and 2004.

The recent influx of non-EEA workers has involved a diverse range of nationalities, with a substantial number coming from the broad Eastern European region (including the countries of the former Soviet Union). There have also been very large increases in the case of citizens of South Africa and the Philippines.

As these data are based on an administrative source they cannot be directly compared with the more global survey-based CSO migration estimates described above. However, the trends indicated by both sources are reasonably consistent. There are similar employment permit systems in a number of other countries. While this may provide a basis for broad comparisons, since eligibility and other administrative provisions vary considerably, it is difficult to use these data to make cross-country comparisons in any detail.

### 3.2.3 STATISTICS ON ASYLUM SEEKERS

Data on asylum seekers, which are available in aggregate form on a monthly basis, are compiled by the Department of Justice, Equality and Law Reform and its satellite agencies, principally the Office of the Refugee Applications Commissioner (ORAC) and the Refugee Appeals Tribunal (RAT). Information on reception and integration supports for recognised refugees and other non-EU nationals allowed to remain in the State, as well as the provision of services for asylum seekers, are available from the Reception and Integration Agency (RIA).

The data available (or potentially available) on asylum seekers is extensive. It covers personal characteristics (age, sex, nationality, family situation, educational level etc.) as well as information on the various stages of the application process (i.e., initial or first instance applications and appeals). Data on decisions taken at each stage (i.e., recognition of refugee status, refusals, withdrawals, etc.) are also available. Table 5 shows the number of applications for asylum that were lodged in Ireland over the period from 1994 to 2004. The number increased from negligible proportions in the early 1990s to over 11,600 in 2002. The number then fell significantly in 2003 and 2004 to 7,900 and 4,766 respectively.

**Table 5: Asylum Seekers 1994-2004**

Year	No. Applications
1994	362
1995	424
1996	1,179
1997	3,883
1998	4,626
1999	7,724
2000	10,938
2001	10,325
2002	11,634
2003	7,900
2004	4,766
Total 1994-2004	63,761

*Source:* Office of the Refugee Applications Commissioner (2005).

The total number of applications over the entire period was almost 64,000. Table 6 shows data on asylum applications in 2004 classified by the top 6 nationalities. Citizens of Nigeria accounted for 38 per cent of all asylum applications in that year, followed by Romania (6 per cent) and Somalia (4 per cent). The Democratic Republic of Congo, China and Sudan accounted for 3 per cent of applicants.

**Table 6: Applications for Asylum by Top Six Nationalities in 2004**

Country	No.
Nigeria	1,778
Romania	286
Somalia	200
China	153
Sudan	143
DR Congo	138
Other	2,068
Total	4,766

*Source:* Office of the Refugee Applications Commissioner (2005).

Table 7 shows a breakdown of final decisions in 2004 i.e., cases for which specific decisions were made. The total number of first instance asylum applications finalised in Ireland in 2004 was 7,141. The total number of asylum

applications made in 2004 was less than the number of decisions. This indicates that some of the backlog of applications from earlier years was reduced. It should be noted that since first instance decisions only are covered, the large number of persons for whom applications for asylum were either refused or deemed to be manifestly unfounded or Dublin Convention/ Dublin II decisions had the option of lodging an appeal against the decisions in question.

**Table 7: Breakdown of Asylum Applications Finalised in 2004**

Decisions etc	No.	%
Granted	430	6.0
Refused	4,904	68.7
Manifestly Unfounded	2	0.0
Dublin Regulation/ Dublin Convention	243	3.4
Withdrawn	8	0.1
Refused: Withdrawn or deemed withdrawn	1,554	21.8
<b>Total</b>	<b>7,141</b>	<b>100.0</b>

*Source:* Office of the Refugee Applications Commissioner (2005).

Caution needs to be exercised in using and interpreting data on asylum related activities, particularly in attempting to compare annual numbers for applications and decisions, as the latter can relate to applications over a number of years. This applies particularly in the case of calculations such as “refugee recognition rates”. Furthermore for this measure to be meaningful, it is necessary to view the first instance and appeal stages as one integrated process and to avoid double counting of individual applicants.

The Public Annual Report on Migration and Asylum<sup>21</sup> recommends that the recognition rate be calculated as the ratio of the number of “positive” decisions to the total of all cases finalised in the year in question. This may not be ideal, but is probably the simplest way to approach the issue. The problem of double counting is acknowledged, but no explicit direction is given other than asking countries to indicate how it is dealt with (if at all). The Department of Justice, Equality and Law Reform used this method to calculate a refugee recognition rate of 8.6 per cent and 9.0 per cent for 2003 and 2004 respectively. Cases finalised refer to those that are processed to the stage where the Minister for Justice, Equality and Law Reform is in a position to grant, or not to grant, a declaration of refugee status. (It is important to note that certain types of decisions taken in the period are therefore excluded from the calculation including applications considered ‘un-processable’ and applications dealt with under the provisions of the Dublin Convention.)<sup>22</sup>

Another, perhaps more meaningful, way of calculating the recognition rate is to track the progress through the determination system of a cohort of applicants in a particular year. However, this could present data availability problems and the final result cannot be calculated until a number of years have elapsed.

### 3.2.4 NON-EEA IMMIGRANTS

Even though Irish legislation does not yet specifically provide for long-term secure resident status for non-EEA nationals, such persons can enter the country for work or study purposes, or to join family members already resident in Ireland. Apart from the possession of visas or work permits associated with the purpose of entry, these immigrants are required to register with the Garda (Police) National Immigration Bureau within 90 days of entering the country.

<sup>21</sup> Unpublished report but results available at DG Justice and Home Affairs: [http://www.europa.eu.int/comm/justice\\_home](http://www.europa.eu.int/comm/justice_home)

<sup>22</sup> *Source:* Department of Justice, Equality and Law Reform.

This registration system has the potential to provide comprehensive and detailed information on the migratory inflow and stock of Non-EEA nationals, but heretofore has not been exploited. This derives partly from the fact that until relatively recently the number of immigrants involved was small, but has escalated in recent years and that the system was computerised only from September 2001. This is evident both from the total number of registrations recorded (which has risen from 19,000 in 1997 to almost 128,000 in 2003) and from the CSO-based gross immigration data classified by nationality as outlined earlier in Table 2.

# 4. SUMMARY OF NATIONAL LEGISLATION

The majority of Irish legislation dealing with migration and asylum has been introduced relatively recently in line with increased immigration into the State.

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## 4.1 Immigration and Residence (General)

### 4.1.1 PLANNED NEW IMMIGRATION AND RESIDENCE LEGISLATION

More comprehensive and broadly based immigration and residence legislation than the Alien's Act 1935 has been in preparation since 2002 and the discussion document *Immigration and Residence in Ireland: Outline policy proposals for an Immigration and Residence Bill* (Department of Justice, Equality and Law Reform, 2005) has recently been published. The key proposals made by the government include a new legislative basis for the visa system, a review of existing border controls and clearer procedures for the admission of migrants for a range of purposes including employment, studies and family reunification. The introduction of a new status of long-term resident for those legally resident over five years in the State is proposed. Illegal immigration and people trafficking and smuggling are directly addressed and reforms to the removals process are proposed.

### 4.1.2 EMPLOYMENT PERMITS BILL 2005

The Department of Enterprise, Trade and Employment have recently introduced a new Employment Permits Bill. If passed the Bill will codify in legislation the administrative procedures associated with the current work permit and working visa/work authorisation schemes. The Bill provides for the application, grant, renewal, refusal and revocation of employment permits. A greater degree of flexibility is introduced with regard to skilled workers. The Bill provides that employment permits are granted to the employee and that the permit will state certain rights and entitlements of the worker concerned. The Bill prohibits recruitment related deductions from remuneration and the retention by the employer of the employee's personal documents.

### 4.1.3 S.I. NO. 55 OF 2005 – IMMIGRATION ACT 1999 (DEPORTATION) REGULATIONS 2005

This Order authorises Immigration Officers and members of the Garda Síochána to deport a person from Ireland under the 1999 Immigration Act. The form of the deportation order and the prescribed places of detention for the purposes of deportation are set out in the First and Second Schedule of the Order respectively.

#### **4.1.4 S.I. NO. 56 OF 2005 – IMMIGRATION ACT 2003 (REMOVAL PLACES OF DETENTION) REGULATIONS 2005**

Under the Immigration Act 2003 this Order sets out the prescribed places of detention for the purposes of removal from the State.

#### **4.1.5 IRISH NATIONALITY AND CITIZENSHIP ACT 1956-2004**

The statute law governing Irish citizenship is the Irish Nationality and Citizenship Act 1956. The 1956 Act has been amended by the Irish Nationality and Citizenship Act 1986, 1994, 2001 and 2004.

The right to Irish citizenship granted to all persons born on the island of Ireland (Northern Ireland and the Republic) was inserted into the Constitution by way of the Belfast Agreement in 1998. The acquisition of citizenship was therefore placed beyond the remit of the legislature until recently. The 2004 Irish Nationality and Citizenship Act now sets out the conditions under which Irish citizenship may be granted to a child born in Ireland with non-national parents. One of the parents must have been legally resident in the island of Ireland for three years during the four years immediately preceding the person's birth. Periods spent in the State pursuing education or awaiting determination of an asylum application do not qualify in this regard.

The 2001 Irish Nationality and Citizenship Act contains significant provisions which affect persons who wish to obtain Irish citizenship through marriage to an Irish citizen. If the marriage took place on or before 30 November 2002 it is possible for the non-national spouse to become a citizen by making a post-nuptial declaration of citizenship (with additional conditions). If the marriage took place after that date the non-national spouse may be able to naturalise at the Minister's 'absolute discretion' if s/he *inter alia* has resided for one year in Ireland and during the four years prior to application had a total residence in Ireland amounting to two years. Non-nationals may acquire citizenship by naturalisation if they have *inter alia* one year of continuous residence along with periods amounting to four years total residence within the eight years prior to their application.

#### **4.1.6 THE TWENTY-SEVENTH AMENDMENT OF THE CONSTITUTION ACT 2004**

The Twenty-seventh Amendment of the Constitution Act was passed by way of referendum in June 2004. The amendment addresses the manner in which Irish citizenship is granted and had the effect of restoring the power of the legislature with regard to the acquisition of citizenship. Turnout for the referendum was high at 60 per cent and the amendment was passed by a majority of 79 per cent.

#### **4.1.7 SOCIAL WELFARE (MISCELLANEOUS PROVISIONS) ACT 2004**

The Social Welfare (Miscellaneous Provisions) Act was amended in February 2004 to include restrictions on access to certain social welfare payments. A Habitual Residence Condition was included ahead of the accession of ten new Member States in May 2004. The test applies to all persons but was introduced to protect the Irish welfare system post-accession. This was deemed to be a priority partly because Ireland has a common travel area with Britain. The basic requirement for a person to be deemed 'habitually resident' is to have been resident in Ireland or the UK for a continuous period of two years before making an application for social welfare.



#### 4.1.8 IMMIGRATION ACT 2004

Until the introduction of the Immigration Act 2004 the 1935 Aliens Act formed the basic legislation governing the entry and residence of non-nationals in the State. A quite complicated series of judgments led to the introduction of this Act.

In 1999, in the case of *Laurentiu v Minister for Justice* ([2000] 1 ILRM) the Supreme Court found that the manner in which the 1935 Act conferred on the Minister the power to make secondary legislation (Aliens Orders) in relation to deportation was inconsistent with the Irish Constitution. In response, the Oireachtas enacted the Immigration Act 1999 (see above) which, as well as putting the deportation process in the form of a primary statute, provided as follows at section 2(1): *Every order made before the passing of this Act under section 5 of the Aliens Act 1935 . . . shall have statutory effect as if it were an Act of the Oireachtas.*

In January 2004, in the case of *Leontjava and Chang* ([2005] 1 ILRM) the High Court found that Section 2 of the 1999 Act (quoted above) was an unconstitutional legislative method of giving the effect of primary statute to secondary legislation. The Supreme Court overturned this finding in June 2004 noting that the Irish Constitution afforded “a strikingly wide latitude” to the Oireachtas in adopting whatever form of legislation it considered appropriate in particular cases.<sup>23</sup> The High Court also held that the provisions of the Aliens Orders that allowed a permission to stay in the State to be qualified by a condition on the duration of that stay were *ultra vires* (beyond) section 5 of the 1935 Act. This was upheld on appeal. Finally, the High Court found that the provision for the making of orders requiring a non-national to produce identification and registration documents was inconsistent with the Constitution. Broadly it was found that the Minister has been given too much discretion to make specific determinations in a way that was incongruent with the Irish Constitution. Again this finding was overturned on appeal.

In response to the High Court judgment the Government quickly 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 Act includes a wide range of provisions that would previously have been contained in the Orders made under the 1935 Act. It makes provision for the appointment of immigration officers and criteria for permission to land. The Act empowers the Minister to make orders regarding visas and approved ports for landing and imposes limits on the duration of a non-national's stay. Certain obligations are imposed on carriers and persons landing in the State are required to be in possession of a passport or identity document and non-nationals are required to register with the Gardai (police).<sup>24</sup> The Supreme Court judgment has rendered much of the bill no longer necessary but the Department of Justice has not repealed the Act.

#### 4.1.9 EUROPEAN CONVENTION ON HUMAN RIGHTS ACT 2003

The European Convention for the Protection of Human Rights and Fundamental Freedoms is a binding International Treaty of the Council of Europe. The Irish Act came into effect in December 2003. It has the effect of requiring the courts to interpret domestic legislation in a manner consistent

<sup>23</sup> ‘States appeal against judgment allowed’, *The Irish Times*, June 26<sup>th</sup> 2004.

<sup>24</sup> Certain sections of the 2004 Act have been criticised as dated replications of the older Orders. In particular the Act makes provision for the refusal of permission for leave to land to non-nationals suffering from certain diseases or “profound mental disturbance”. In addition, for the first time it is made an offence for an Irish national not to comply with immigration provisions. Section 9 obliges all persons to inform the authorities if a non-national who is in the State illegally, is living as part of their household.

with the Convention and rights under the Convention are now enforceable in Irish courts. In response to criticisms that the Act is an inadequate incorporation of the Convention into Irish law the Minister noted that the "...Convention was never intended to have the effect as a shadow constitution for any Member State of the Council of Europe" (see Department of Justice, Equality and Law Reform, October 2003).

#### **4.1.10 EMPLOYMENT PERMITS ACT 2003**

This Act was introduced to facilitate free access to the Irish labour market to nationals of the new EU Accession States after 1<sup>st</sup> May 2004. The requirements for work permits and working visas therefore no longer apply. The Act also, however, 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 incorporates a provision whereby, 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.

#### **4.1.11 IMMIGRATION ACT 2003 REGULATIONS**

S.I. No. 445 of 2003, Immigration Act 2003 (Approved Ports) Regulations 2003. The regulations 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.

S.I. No. 447 of 2003, Immigration Act 2003 (Carrier Liability) Regulations 2003. These Regulations set out the forms of notice to be given to carriers alleged to be in breach of section 2 of the Immigration Act 2003.

S.I. No. 446 of 2003, Immigration Act 2003 (Removal Direction) Regulations 2003. These Regulations 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.

#### **4.1.12 IMMIGRATION ACT 2003**

The Immigration Act 2003 introduced carrier liability whereby a carrier can be held responsible and fined for bringing an undocumented immigrant to the State. The 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.

#### **4.1.13 IMMIGRATION ACT 1999**

In the case of *Laurentiu v Minister for Justice, Equality and Law Reform* ([2000] 1 I.L.R.M.1) the 1935 Aliens Act was found to be unconstitutional in the manner in which it gave the Minister for Justice the power to deport. In effect the Minister was found to be without statutory powers in relation to deportation of non-nationals from the State and the 1999 Immigration Act was designed to remedy this gap. The Act sets out the principles, procedures and criteria, which govern the detention and removal of non-nationals from the State, and makes provision for the issuing of deportation and exclusion orders. As discussed above in relation to the 2004 Immigration Act, elements of the 1999 Act were later found unconstitutional.

Amendments are included in the 1999 Immigration Act, which address certain technical difficulties that emerged with the 1996 Refugee Act. These

relate principally to the bodies responsible for deciding refugee status applications and are discussed below.

#### **4.1.14 S.I. NO. 57/1997: EUROPEAN COMMUNITIES (RIGHT OF RESIDENCE OF NON-ECONOMICALLY ACTIVE PERSONS) REGULATIONS 1997**

These Regulations set out the rights of non-economically active people to land in Ireland and to obtain a residence permit. Such persons include Member State nationals who are students, retired persons or other economically non-active persons, and their accompanying dependants. A residence permit is only issued in cases where the Minister is assured that the applicant has sufficient resources to support her/himself, their spouse if relevant and any accompanying dependants.

#### **4.1.15 S.I. NO. 393/1977: EUROPEAN COMMUNITIES (ALIENS) REGULATIONS 1977**

This regulation sets out the rights of EC nationals, who are or will be employed, to land and reside in Ireland. The residence permit system that will apply to them and their dependents is detailed. This permit is valid for a period of five years and is usually renewable automatically. The rights of certain EC nationals to remain in Ireland after employment has ceased are also set out.

#### **4.1.16 ALIENS ACT 1935 AND S.I. ALIENS ORDER 1946, 1975**

Until recently the 1935 Aliens Act, and the Orders made under that Act, formed the basic legislation governing the entry and residence of non-nationals in the State. The Act grants wide powers to the Minister for Justice, Equality and Law Reform to regulate non-nationals in Ireland in terms of their entry to, departure from, movement around and residence in the state. A great number of Orders were produced under the 1935 Aliens Act. The most significant of these are the 1946 and 1975 Orders, which provide that leave to land may be refused to non-nationals in certain circumstances. The Orders also provide that the non-national may be arrested and detained by an Immigration Officer or a member of the Gardaí (police). The 1946 Order sets out certain restrictions on the landing of non-nationals as well as procedures for their inspection, supervision, detention and deportation.

The constitutionality of parts of the 1935 Act, and Orders made thereunder has been successfully challenged in two recent court cases (*Leontjava and Chang v Minister for Justice, Equality and Law Reform*, [2005] 1 ILRM; *Laurentiu v Minister for Justice, Equality and Law Reform*, [2000] 1 ILRM 1, Supreme Court, 20/05/1999). These rulings have both required new legislation to be passed, which to a large extent replaces the 1935 Act and its Orders. (The 2004 judgment was however subsequently overturned, *DPP v Leontjava*, Supreme Court: 23/06/2004). This new legislation is discussed in more detail above in relation to the Immigration Acts 1999 and 2004.

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## **4.2 Asylum**

### **4.2.1 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. Asylum seekers are now obliged to enter the State's direct provision accommodation system.

#### 4.2.2 S.I. NO. 422 OF 2003: REFUGEE ACT 1996 (SAFE COUNTRIES OF ORIGIN) ORDER 2003

This Order lists the countries designated as safe for the purpose of prioritising applications for refugee status made by nationals of those countries under the Refugee Act 1996 (as amended by the 1999 Immigration Act).

#### 4.2.3 REFUGEE ACT 1996

The 1996 Refugee Act as amended by the Immigration Act 1999, the Illegal Immigrants (Trafficking) Act 2000 and the Immigration Act 2003 sets out the law governing the processing of applications for refugee status in Ireland. Due to technical problems the Refugee Act was not implemented in full until 20<sup>th</sup> November 2000. The principal purpose of the Act is to give statutory effect to the State's obligations under the 1951 Geneva Convention Relating to the Status of Refugees and the related 1967 Protocol. The Refugee Act established the independent statutory offices of the Refugee Applications Commissioner (ORAC) and the Refugee Appeals Tribunal (RAT) and generally set out the process for asylum application including accelerated procedures for 'manifestly unfounded' applications. The Dublin Convention, which provides the legal basis for determining which EU Member State is responsible for examining an asylum application, was also incorporated into Irish Law through this Act.

The Immigration Act 2003 contains a substantial number of amendments to the Refugee Act 1996. All asylum applicants may now be fingerprinted including children. The permissible period for detention of asylum applicants between Court appearances was increased from 10 to 21 days.<sup>25</sup> The Act places an increased duty to co-operate on the applicant – where this obligation is not met the application may be deemed withdrawn and his/her application rejected.<sup>26</sup> The Act makes provision for the Minister to designate safe countries of origin. Asylum seekers from these countries will be presumed not to be refugees unless they can prove otherwise.<sup>27</sup>

The Minister was empowered to issue prioritisation directives to the Refugee Applications Commissioner and the RAT for certain categories of applicants including apparently unfounded claims, apparently well-founded claims and cases of family reunification. A prioritisation directive requires ORAC and RAT to deal with the specified category of cases as soon as possible.

In addition a more streamlined accelerated procedure was introduced at appeal stage aimed at those applicants found not to be refugees at first instance and whose cases display certain features considered to be indicative of abuse of the asylum process. Where the decision includes a finding listed in the new Section 13 of the Act the Applicant will no longer be 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 this period for appeal further to four working days for certain categories of applicants. The

<sup>25</sup> Asylum seekers are not generally detained as a policy in Ireland. The 1996 Refugee Act provides for detention of asylum-seekers where there is a real risk on public policy grounds that the interests of Irish society and the State can be adversely affected. The power of detention under the Immigration Act of 1999 is exercisable only for the purpose of ensuring deportation where there is a "final or concluded intention to deport" (*Bola Funmi Ojo v The Governor of Dóchas Centre*, [2003] 8 ICLMD 118).

<sup>26</sup> 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 (ORAC, 2004, p. 28).

<sup>27</sup> In deciding whether to make such a designation, the Minister considers whether the country is party to certain international human rights instruments, whether it has a democratic political system and an independent judiciary, and whether it is governed by the rule of law. The list of countries will be kept under review but currently includes the Accession States, Bulgaria, Romania and South Africa.

Act as amended in 2003 also clarifies that the Chairperson of the RAT may publish decisions where he or she sees fit. Finally, the Act as amended provides for revised arrangement 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>28</sup>

#### **4.2.4 S.I. NO. 343/2000: DUBLIN CONVENTION (IMPLEMENTATION) ORDER 2000**

This Order gives effect to the State's obligations as a party to the Dublin Convention (now the Dublin II Regulation).<sup>29</sup> Procedures were put in place for the Refugee Applications Commissioner to determine whether an asylum application should be dealt with in the State or in another convention country. The Order sets out the official means of notifying an intention to transfer an applicant, the appeals procedure, and the type of information the Refugee Applications Commissioner can request/exchange with other Member States.

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### **4.3 Trafficking**

#### **4.3.1 ILLEGAL IMMIGRANTS (TRAFFICKING) ACT 2000**

This Act was originally introduced to address the problem of increased activities of international criminal gangs smuggling illegal immigrants into the State. The Act makes it an offence to trafficking in illegal immigrants with significant penalties on conviction and extends the powers of the Garda Síochána (Police) to enter and search premises and to detain suspected offenders in relation to such activities.

Considerable controversy followed the introduction of two sections to the Bill which amend the 1996 Refugee Act. Section 5 introduced stringent requirements for the processing of judicial review applications in asylum and immigration beyond the normal requirements.<sup>30</sup> In addition Section 10 provided extra measures to facilitate the deportation of non-nationals from the State, as well as expanding the grounds on which they may be detained pending such deportation. The Bill was passed through the Oireachtas (parliament) but the President of Ireland referred sections 5 and 10 of the Bill to the Supreme Court.<sup>31</sup> The Supreme Court found that neither section was

<sup>28</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).

<sup>29</sup> See note above.

<sup>30</sup> The 2000 Illegal Immigrants (Trafficking) Act mandates that certain key decisions or actions taken in the asylum and deportation process may only be appealed to the High Court by way of judicial review. It also reduces the normal applicable time limit for seeking leave to apply for judicial review to 14 days. This period may be extended where there are "good and sufficient" reasons for so doing. The applicant must also show "substantial grounds" as to why the application should be granted and the decision of the High Court may not be appealed to the Supreme Court, save for cases where the Court is convinced that the issue in question is one of "exceptional public importance".

<sup>31</sup> The President of Ireland performs the last step in the Irish legislative process by signing Bills into law. If she or he has concerns about the constitutionality of a Bill the President may refer it to the Supreme Court before signing. Before making such a referral the President must first consult the Council of State – a group comprising former prime ministers, deputy prime ministers, presidents and others. The constitutionality of any Bill signed following this type of referral may not be subsequently challenged in the courts.

repugnant to the Constitution.<sup>32</sup>

### **4.3.2 CHILD TRAFFICKING AND PORNOGRAPHY ACT 1998**

The purpose of this Act is to strengthen the legislative measures aimed to protect children under 17 years old from sexual exploitation through child trafficking and child pornography. It is made an offence, punishable by up to life imprisonment, to organise or knowingly facilitate child trafficking, i.e., the entry into, transit through or exit from the State of a child for the purpose of his or her sexual exploitation. The detention of a child for such purposes is also made an offence punishable by up to ten years imprisonment. The Act does not extend to child trafficking for the purposes of labour exploitation. To date more prosecutions have been brought under the Act in relation to pornography than to trafficking (see Conroy, 2003, p. 14).

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## **4.4 Racism and Discrimination**

### **4.4.1 EQUALITY ACT 2004**

The Equality Act, 2004 was enacted in July 2004 and has the effect of implementing a number of EU directives in the area of racism and discrimination. The Equality Act extended equality legislation to domestic workers, self-employed people and persons over 65 years of age.

### **4.4.2 EQUAL STATUS ACTS 2000-2004**

The Equal Status Acts make it an offence to discriminate in relation to the provision of goods and services, accommodation or property. The nine grounds of discrimination covered in the Act are the same as those covered by the Employment Equality Act 1998 (see below). Private and public sector goods and services are covered. Incidents which fall under the Equality Acts or the Employment Equality Act 1998 are dealt with by the Equality Authority and the Equality Tribunal.

### **4.4.3 PROHIBITION OF INCITEMENT TO HATRED ACT 1989**

This Act made it an offence to engage in actions or broadcasts likely to stir up hatred. Hatred is defined as “hatred against a group of persons in the State or elsewhere on account of their race, colour, nationality, religion, ethnic or national origins, membership of the travelling community or sexual orientation”. The Act covers words articulated in public places or at public events. It is also made an offence to be in possession of, or to distribute, potentially offensive material. The Act has proved difficult to implement and to date there have been no successful prosecutions made under it. As a result the Act is under review by the Department of Justice, Equality and Law Reform.

### **4.4.4 EMPLOYMENT EQUALITY ACT 1998**

The Employment Equality Act deals with access to employment and training. The Act protects against discrimination on the following nine grounds: gender, marital status, family status, age, disability, religion, race, sexual orientation, membership of the Traveller community. The Act covers private and public sector employees as well as applicants for employment and training. The publication of discriminatory advertisements is also prohibited under this legislation.

<sup>32</sup> [2000] 2 I.R. 360.

# 5. SUMMARY OF CASE LAW

Recent years have seen a marked increase in the number of asylum related cases in Irish Courts. The Office of the Refugee Applications Commissioner and the Refugee Appeals Tribunal are the bodies responsible for processing asylum applications in Ireland. These are statutorily independent entities established under the 1996 Refugee Act. Asylum applicants may also appeal to the High Court and on occasion the Supreme Court – the two highest courts in Ireland. In general only substantive issues would make it as far as the Supreme Court. For that reason most of the cases listed below are from the Supreme Court. A number of significant High Court cases have also been included. One relevant European Court of Justice Opinion is also discussed. The following list has been broken into themes that have dominated the formation of immigration and asylum policy in Ireland in the last two decades.

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## 5.1 Constitutional Issues

### 5.1.1 FAMILY (INCLUDING IRISH BORN CHILDREN)

#### *Zhu & Chen v Secretary of State for the Home Department (UK)*

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European Court of Justice (ECJ) 19/10/2004  
C-200/02

#### *Description*

Ms. Chen, a Chinese national travelled to Belfast in order to give birth to her daughter Catherine on the island of Ireland (i.e. in Northern Ireland or the Republic). The child was immediately registered as an Irish citizen as provided for under the Irish Constitution as it then stood. The family wished to reside in the UK but was refused permission to do so by the Home Office. To the Chinese government the child is an Irish national. As a foreigner she may apply to stay in the country of her parents for not more than 30 days at a time and then only with the permission of the authorities. The expulsion of Ms. Chen from the UK would therefore lead to the separation of mother and daughter.

It was found that denying Ms. Chen the right to reside in the UK to be with her daughter, who enjoys such a right, would be “manifestly” contrary to her daughter’s interests and would be contrary to Article 8 of the European Convention on Human Rights on the right to respect for family life. Ms. Chen must be able to invoke a right of residence deriving from that of her young child because the contrary would result in entirely depriving her daughter’s right to reside in the UK of any effectiveness. An important dimension to this case is that Ms. Chen was in the EU legally at the time of her child’s birth. Another significant point is that the family is financially independent and will not rely on the UK welfare system.<sup>33</sup>

<sup>33</sup> Migration Policy Group (June 2004), *Migration News Sheet*, Brussels.

*Short Description*

Ms. Chen, a Chinese national travelled to Belfast in order to give birth to her daughter Catherine on the island of Ireland. The child was registered as an Irish citizen as provided for under the Irish Constitution as it then stood. The family was refused permission to reside in the UK. The ECJ found that denying Ms. Chen the right to reside in the UK to be with her daughter, who enjoys such a right, would be unacceptable.

***G (O E) v Minister for Justice, Equality and Law Reform***

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High Court 27/05/2004  
Unreported

*Description*

The applicants had applied for asylum. They later withdrew their asylum claim and applied for residency on the basis of their Irish born child. That application was rejected and deportation orders were issued against them. They applied to have the deportation orders quashed on the basis that their rights under the Constitution to a family life were being interfered with. The High Court held that parentage of an Irish born child gave no right of residence in the State. It was also held that the applicants had not established any arguable grounds for challenging the decisions to deport them in accordance with section 3 of the Immigration Act of 1999. The court also found that persons who were the subject of immigration control did not need to be given an opportunity to make representations in relation to policy in that sphere.

*Short Description*

The High Court held that parentage of an Irish born child gave no right of residence in the State. The court also found that persons who were the subject of immigration control did not need to be given an opportunity to make representations in relation to policy in that sphere.

***Lobe & Osayande v Minister for Justice, Equality and Law Reform***

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Supreme Court, 23/01/2003  
[2003] 3 ICLMD 57

*Description*

In the case of *Lobe & Osayande v Minister for Justice* the applicants were non-nationals and the parents of Irish born children. The Refugee Applications Commissioner and the Refugee Appeals Tribunal originally refused asylum on Dublin Convention grounds and a deportation order was issued. The applicant then issued judicial review proceedings against the deportation order. The Minister gave an undertaking not to deport the applicant pending the determination of the proceedings, during which time a child was born in Ireland. The applicant raised constitutional issues as grounds of judicial review. In respect of the Irish born child it was argued that, pursuant to Article 2 and Article 40.3.1 of the Constitution, amongst the personal rights of the citizen is the right to reside in Ireland with his or her parents. It was also argued that the family was a constitutionally recognised and had rights under Article 41.1.1, Article 41.2 and Article 42 of the Constitution.

The court refused judicial review and held that there were grave and substantial reasons associated with the common good that required that the residence of parents of the Irish-born child within the State should be terminated, even though that in order to remain a family unit, the child would



also have to leave the State. These reasons considered by the Minister in ordering the deportation of the applicant included the insufficient length of time the family had been in the State and the duty to apply the Dublin Convention to which Ireland was a party. The court held that the ruling of *Fajjonu v Minister for Justice* ([1990] 10 ILRM 234) did not mean that the Minister had no power to deport the parents of an Irish born child.

*Short Description*

The applicants had made an unsuccessful asylum application. The applicants then claimed a constitutional right to reside in Ireland with their Irish born child. The court refused judicial review and held that the Minister's reasons in ordering the deportation were grave and substantial reasons associated with the common good. The court held that the ruling of *Fajjonu v Minister for Justice* ([1990] 10 ILRM 234) did not mean that the Minister had no power to deport the parents of an Irish born child.

***O. (A Minor suing by Mother and Next Friend (I.A.O.) v Minister for Justice, Equality and Law Reform***

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Supreme Court, 06/06/2002  
[2003] 1 ILRM 241

*Description*

In the case of *O. v Minister for Justice, Equality and Law Reform* the second named applicant was pregnant and sought a judicial review of her deportation order on various grounds. It was argued that the unborn child had a legal personality with rights under the Constitution to include the right to birthright under Article 2 of the Constitution. The court held that entitlement to birthright under that article was an entitlement of a person born in Ireland. It was also argued that the deportation would infringe on the right to life of the unborn in that, *inter alia*, there was no stable system of antenatal care in the country to which the applicant would be deported. The court held that this issue was irrelevant to the legality of the deportation. The court also rejected the argument that fair procedures required that the deportation order should specify the reasons for holding that the prohibition on non-*refoulement* did not apply to an asylum applicant. The court held that the reasons in the deportation order had been sufficient. The Supreme Court dismissed the appeal and found that a deportation order could not be prevented solely on the ground that the subject was pregnant.

*Short Description*

The second named applicant argued that the unborn child had a legal personality with rights under the Constitution. *Inter alia* it was argued that deportation would infringe on the right to life of the unborn in that there was no stable system of antenatal care in the country to which the applicant would be deported. The Supreme Court dismissed the appeal and found that a deportation order could not be prevented solely on the ground that the subject was pregnant.

***Fajjonu v Minister for Justice, Ireland and the Attorney General***

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Supreme Court, 08/12/1989  
[1990] 10 ILRM 234

*Description*

In the case of *Fajjonu v Minister for Justice* two of the appellants were a non-national married couple who came to Ireland from London in 1981. They failed to report to an immigration officer as required and stayed longer than a month without the permission of the Minister. In 1983 their child was born in Ireland. In 1984 their situation came to the attention of the Department of Justice and the husband was requested to leave although no deportation order was made. The appellants started proceedings and sought to restrain the Minister from issuing a deportation order on the ground *inter alia* that the child was a citizen of Ireland and was entitled to the protection of constitutional rights under Articles 40, 41 and 42 of the Constitution which included a right to remain resident in the State and to be parented by his or her parents within the State.

The Supreme Court dismissed the appeal but held that where a non-national had resided for an appreciable time and become a family unit within the State with children who were Irish citizens, then such Irish citizens had a constitutional right to the company, care and parentage of their parents within the family unit. The Judge stated that before making a deportation order, the Minister would have to be satisfied that the interests of the common good and the protection of the State and its society are so overwhelming in the circumstances of the case as to justify the breaking up of the family. The matter was remitted to the Minister for reconsideration of the decision to deport.

*Short Description*

The Supreme Court held that the Irish-born child had a constitutional right, albeit not absolute, to the company, care and parentage of parents within the family unit unless there are strong reasons justifying the contrary.

***Osheku v Ireland***

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[1986] IR 733

*Description*

In the case of *Osheku & Others v Ireland* the plaintiffs were a husband and wife and their infant son. The husband was born in Nigeria and was not an Irish citizen, his wife and their child were. Mr. Osheku arrived in Ireland in 1979 claiming he had come on holiday, he remained in Ireland up to the time of the hearing in the High Court in 1986, having married his Irish wife in 1981. Mr. Osheku was asked to leave the country on a number of occasions and in 1983 was told he could no longer remain in Ireland unless he supplied proof that he could support himself and his dependents. Mr. Osheku did not provide this proof and instituted proceedings to obtain an order preventing his deportation. He claimed constitutional rights and challenged the validity under the Constitution of the Aliens Act 1935 and of statutory orders thereunder and of the Irish Nationality and Citizenship Act 1956.

The Judge refused to grant the order and held that deportation would not infringe on the constitutional rights of any of the plaintiffs. He held *inter alia* that the right to reside in a place of the individual's choice is not a fundamental or constitutional right of a citizen and that the Plaintiff's marriage does not

confer immunity from the sanctions of law regarding his continuous breach of the laws of the State.

*Short Description*

In *Osheku & Ors v Ireland* the court found that a person may be deported even if they are married or related to an Irish citizen.

***Pok Sun Shun v Ireland***

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[1986] ILRM 593

*Description*

In the case of *Pok Sun Shun & Others v Ireland & Others* the plaintiff was a native of China who arrived in Ireland in 1978 and worked in a restaurant. As a result of what was described as a “serious incident” in 1979 he was informed by the Department of Justice that he would have to leave the country. Later that year he married the second named plaintiff: they had three children and, at the time of the hearing in the High Court, his wife was expecting a fourth child. No steps were taken by the authorities on foot of the earlier indication that he should leave the country and, on the contrary, he was given permits by the Department of Labour allowing him to continue to work. However, when in 1981 he applied to the Minister for a certificate of naturalisation, and made an application for permission to carry on business as a self employed person, both applications were refused. He was informed that he would have to leave the country, but a stay of a further three months was allowed for him to prepare for departure.

In the proceedings, a number of declarations were claimed on behalf of the plaintiffs, including declarations that the plaintiff’s wife had a right under Article 41 to have her family unit protected and in particular to be allowed to cohabit with her husband and to reside within the State. A declaration was also sought that the plaintiff, as the lawful spouse of the second named plaintiff and father of the third and fourth named plaintiffs (the children), was entitled to the protection of the Constitution and in particular the provisions of Articles 9, 40, 41 and 42.

The court held that the plaintiffs were not entitled to the declarations sought, and said: “I do not think that the rights given to the ‘family’ are absolute, in the sense that they are not subject to some restrictions by the State and, as [counsel for the State] has pointed out, restrictions are, in fact, permitted by law, when husbands are imprisoned and parents of families are imprisoned and, undoubtedly, whilst protected under the Constitution, these are restrictions permitted for the common good on the exercise of its rights”.

*Short Description*

The High Court found that the State is entitled to deport a person even if they are married to or related to an Irish citizen.

### 5.1.2 THE ILLEGAL IMMIGRANTS (TRAFFICKING) BILL, 1999

#### *Article 26 and The Illegal Immigrants (Trafficking) Bill 1999*

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Supreme Court, 28/08/2000  
[2000] 2 IR 360

##### *Description*

The President of Ireland referred to the Supreme Court the matter of the Illegal Immigrants (Trafficking) Bill 1999 (enacted 2000) for judgment on the question of sections 5 and 10 being unconstitutional.<sup>34</sup> Regarding section 5 of the Act the court held that the time limit for judicial review is 14 days not 14 working days and that it is immune from constitutional challenge. The possibility of an extension of time provided for under section 5(2)(a) was ‘wide and ample enough to avoid injustice where an applicant has been unable through no fault of his or hers, or for other good and sufficient reason, to bring the application within the fourteen day period’.

The Supreme Court also upheld the legality of section 10 of the Bill, which provides for detention on the basis that the safeguards that existed in the Bill were adequate to meet the requirements of the Constitution. The validity of the provisions of section 10(c) of the Bill was upheld. The Supreme Court held that the interpretation of the phrase ‘substantial grounds’ which was to the effect that grounds must be ‘reasonable, arguable, and weighty’ and not ‘trivial or tenuous’ was appropriate.

##### *Short Description*

The President of Ireland referred to the Supreme Court the matter of the Illegal Immigrants (Trafficking) Bill 1999 (enacted 2000) for judgment on the question of sections 5 (relating to time limits for judicial review) and 10 (detention) being unconstitutional. The court upheld the legality of both.

### 5.1.3 THE 1935 ALIENS ACT AND 1946 ALIENS ORDER

#### *Leontjava and Chang v Director of Public Prosecutions*

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Supreme Court 24/06/2004  
High Court: 22/01/2004  
[2005] 1 ILRM

##### *Description*

In the case of *Leontjava and Chang v DPP* the High Court found provisions of the Aliens Order 1946, Section 5.1.h of the Aliens Act 1935, and Section 2 of the 1999 Immigration Act unconstitutional. Much of the High Court decision was overturned on appeal to the Supreme Court but in the interim the Immigration Act 2004 was hurriedly introduced.

The background to this case is as follows. Until 1999 the Aliens Act (1935) had been the primary legislation governing the operation of the State’s immigration controls. Orders made under section 5 of that Act (principally the Aliens Order (1946) as amended by an extensive series of later Orders) set out a detailed scheme for controlling the entry of non-nationals into the State, granting permission to be in the State, the requirement to register periodically with the Garda Síochána (police), to produce passports or identification, and the deportation of non-nationals from the State.

<sup>34</sup> See note 31.

In 1999, in the case of *Laurentiu v Minister for Justice, Equality and Law Reform* ([2000] 1 ILRM) the Supreme Court found that the manner in which the 1935 Act gave 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 which, as well as putting the deportation process in the form of a primary statute, provided that: “Every order made before the passing of this Act under section 5 of the Aliens Act 1935 . . . shall have statutory effect as if it were an Act of the Oireachtas” (Section 2).

In the case of *Leontjava and Chang v DPP* the High Court found that this Section 2 of the 1999 Act was an unconstitutional method of giving secondary legislation the effect of primary statute. The Judge noted that neither Articles 5.6 or 15 of the Aliens Order 1946 nor any other provisions of the Aliens Orders referred to in Section 2.1 of the 1999 Act could have been referred to the President. The Supreme Court overturned this finding in *DPP v Leontjava* noting that the Irish Constitution afforded a large degree of flexibility with regard to legislative methods.

The High Court also held that the provisions of the Aliens Orders that allowed a permission to stay in the State to be qualified by a condition on the duration of that stay were ultra vires (beyond) section 5 of the 1935 Act. This was upheld by the Supreme Court on appeal.

Finally the High Court found that the provision for the making of orders requiring a non-national to produce identification and registration documents was inconsistent with the Constitution. Broadly it was found that the Minister has been given too much discretion to make specific determinations in a way that was incongruent with the Irish Constitution. Again this finding was overturned on appeal to the Supreme Court.

In light of her findings, the High Court Judge granted orders restraining the prosecution of a Chinese man for failing to produce identification to a Garda representative when requested to do so and a Latvian woman charged with remaining within the State in contravention of the Aliens Order 1946. The Supreme Court overturned both these orders.

#### *Short Description*

In this case the High Court found provisions of the Aliens Order 1946, Section 5.1.h of the Aliens Act 1935, and Section 2 of the 1999 Immigration Act unconstitutional. This finding fundamentally undermined Irish immigration controls and resulted in the enactment of the Immigration Act (2004). The Supreme Court then overturned a great deal of the judgment on appeal.

### ***Laurentiu v Minister for Justice, Equality and Law Reform***

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Supreme Court, 20/05/1999  
[2000] 1 ILRM 1

#### *Description*

This is an appeal by the State against the decision of the High Court that section 5(1)(e) of the Aliens Act, 1935 was inconsistent with the Constitution of Ireland and does not form part of Irish law. It was found that this Section unconstitutionally delegated the power of deportation to the Minister when it was essentially a legislative measure. The Supreme Court upheld the finding that section 5 of the Aliens Act 1935 was unconstitutional and confirmed that the Minister could not have a legislative power in relation to deportation unless some provision was made in the parent Act. It was also held that Article 13(1) of the Aliens Order 1946 was beyond the powers of the Act of 1935, and also contrary to the Constitution because it purported to confer a power to make

deportation orders on the Minister. The Immigration Act of 1999 now provides a power to deport for the Minister. It was introduced to remedy this legislative and constitutional gap.

*Short Description*

In the case of *Laurentiu v Minister for Justice Equality and Law Reform* the court held that section 5(1)(e) of the Aliens Act of 1935 was unconstitutional in the manner in which it gave the Minister for Justice the power to deport. The Immigration Act of 1999 was introduced to remedy this legislative and constitutional gap.

***Tang v Minister for Justice, Ireland and the Attorney General***

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High Court, Supreme Court: 11/10/1994, 19/12/1995  
[1996] I.C.L.Y. 80

***Description***

The applicants were Hong Kong nationals with British Hong Kong passports. The applicants arrived lawfully but contravened requirements regarding length of stay and taking up employment. In 1993 the family came to the attention of the Gardai and were refused permission to remain in the state by the Department of Justice. The Tang family began an application for judicial review and sought to have this decision quashed. They argued that the decision effectively amounted to a deportation order. The High Court declared Article 13(1) of the Aliens Order 1946 to be ultra vires (beyond) the powers conferred on the Minister by the 1935 Act because the parent Act did not expressly authorise the Minister to make a deportation order. That decision was reversed by the Supreme court, which found Article 13 of the Aliens Order, 1946 to be within the powers conferred on the Minister by the 1935 Act.

***Short Description***

The High Court found that the minister had no power to deport conferred on him by the 1935 Aliens Act. The Supreme Court then overturned that finding on the ground that the 1946 Order under the Act was sufficient.

***Minister for Justice v Wang Zhu Jie***

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High Court, Supreme Court: 05/10/1990, 07/05/1991

***Description***

Plain clothes Gardai entered premises without a warrant, identified themselves and made immigration related enquiries. They arrested Mr. Wang who worked on the premises. It was argued that the arrest was illegal because the Gardai were trespassing when they entered. In addition the defence challenged the legality of the Aliens Order 1946 and claimed it was ultra vires the Aliens Act 1935. The High Court found that the Gardai were legally on the premises because permission to enter the premises was given. It was also held that arrests were permissible under the 1935 Act. The High Court refused leave to appeal to the Supreme Court. The applicant appealed anyway but the Supreme Court had no authority to hear the appeal.

***Short Description***

Mr. Wang argued that his arrest was illegal because the Gardai were trespassing when they entered his work premises. The High Court found that the Gardai

were legally on the premises because permission to enter the premises was given. It was also held that arrests were permissible under the 1935 Act.

#### 5.1.4 DETENTION

##### *Bola Funmi Ojo v The Governor of Dóchas Centre*

High Court, 08/05/2003  
[2003] 8 ICLMD 118

##### *Description*

In the case of Bola Funmi Ojo the applicant was applying for leave to judicially review *inter alia* the decision by the Minister to refuse an application for residency based on her parentage of an Irish born child. The proceedings also dealt with an Article 40 Inquiry<sup>35</sup> concerning the applicant's detention at Mountjoy women's prison in Dublin.

The applicant was a Nigerian national who arrived in Ireland with her four year old child. She applied for asylum and while her application was pending the applicant moved from the reception centre at Mosney to stay with a friend. The applicant later moved again and neglected to inform the Minister of her new address, as she is required to do under the 1996 Refugee Act. The applicant gave birth to an Irish born child in December 2002 and with assistance from the Refugee Legal Aid Service applied for residency based on her Irish born child. On 27th January 2003 the applicant presented herself and her son at Waterford Garda (Police) Station to supply her new address. She was arrested and transferred with her child to prison in Dublin. The arresting Garda (policeman) stated that the applicant was on record as having a deportation order issued against her and had failed to present herself for deportation.

In regard to the Article 40 inquiry the High Court found that due to the pending decision on the Irish born child issue the applicant could not have been deported from the state. The court also found that the power of detention under the Immigration Act of 1999 is exercisable only for the purpose of ensuring deportation. The Minister claimed that it was permissible to detain a person on whom there existed a deportation order even if there was further decision pending so that the person would be available "in the event that the person does not revoke the deportation order".<sup>36</sup> The court concluded that there must be a "final or concluded intention to deport" an individual before they could be detained and therefore ordered the release of the applicant.

In regard to the application for leave to apply for judicial review the court also found in the applicant's favour and ordered a certiorari (quashing order) of the Minister's decision to refuse the applicant's application for residency. The court found that the procedure by which that decision was taken could not objectively be considered to have been fair. The court based this conclusion *inter alia* on the fact that the applicant had made the application under the administrative system in force before the Lobe and Osayande v

<sup>35</sup> Article 40 of the Irish Constitution concerns personal rights; Article 40.4 deals specifically with detention.

<sup>36</sup> The respondents claimed that sections 3(1)(a) and 5(1) of the Immigration Act of 1999 could be separated in that the former section limits the power of detention to ensuring deportation while in the latter section there is an absence of such express wording. The Court refused this argument.

Minister for Justice case.<sup>37</sup> Therefore, she had been deprived of a chance to make representations in light of that important new development, partly because she had been imprisoned.

*Short Description*

The applicant, against whom a deportation order had been issued, applied for an Article 40 inquiry into the lawfulness of her detention and judicial review of the Minister's decision to refuse her permission to reside in the country on the basis of having an Irish-born child. The court found that there must be a "final or concluded intention to deport" as a precondition for detention (in this case impossible due to the pending Irish born child issue) and ordered the applicant's release. The court also granted the judicial review application on the grounds that the applicant had been deprived of fair procedures.

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5.2  
Changes to the  
Law

***Ulhaq v Minister for Justice, Equality and Law Reform***

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High Court, Supreme Court: 03/07/2001, 28/02/2002  
[2001] IESC 81

*Description*

While the applicant's asylum application was being determined the Refugee Act 1996 came into force. Following on from the judgment in *Sarfaraz v Minister for Justice, Equality and Law Reform* the facts of this case are very similar. In the case of *Sarfaraz v Minister for Justice, Equality and Law Reform* the High Court Judge determined that while the Refugee Act provides for the validity of the step of the asylum procedure before enactment of the Refugee Act each step of the process must be complete in order to be valid. The applicant in both *Sarfaraz* and *Ulhaq* were granted the reliefs they sought because the assessment of the case was not accompanied by a recommendation. The Supreme Court later overturned the *Ulhaq* ruling finding that sufficient progress had been made before the enactment of the 1996 Act to constitute a step for these purposes. The Supreme Court found that it was not necessary to duplicate steps taken before the enactment of the Refugee Act even if such steps were unfinished provided the steps represented a 'significant and discernible movement' towards resolution.

*Short Description*

The Supreme Court found that it was not necessary to duplicate steps taken before the enactment of the Refugee Act even if such steps were unfinished provided the steps represented a 'significant and discernible movement' towards resolution.

<sup>37</sup> *Lobe & Osayande and Others v Minister for Justice, Equality and Law Reform* case ([2003] 3 ICLMD 57). The applicants in that case claimed a constitutional right to reside in Ireland with their Irish born child. The court held that the Minister's reasons in ordering their deportation were grave and substantial reasons associated with the common good. The Court held that the ruling of *Fajujonu v Minister for Justice* ([1990] 10 ILRM 234) did not mean that the Minister had no power to deport the parents of an Irish born child. This case effectively ended an administrative system that had allowed parents of Irish born children to reside in Ireland.



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***P. L. B. v Minister for Justice, Equality and Law Reform***

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High Court, 02/01/2001  
 Supreme Court, 30/07/2001  
 [2001] 9 ICLMD

*Description*

Three applicants, P, L. and B brought judicial review proceedings seeking to quash deportation orders against them. Each had made unsuccessful asylum applications and had had appeals turned down. The High Court granted only one of the applicants an order of certiorari (quashing order). It was held that in the case of B there was a failure by the Minister to give reasons for the making of the deportation order in the letter of notice as is required under section 3(a) of the Immigration Act 1999. The High Court also asserted that the points raised in the case were of exceptional public importance and should be taken to the Supreme Court. In the Supreme Court it was held that an applicant is entitled to a written notification of the reasons for his or her deportation however in this case adequate reasons had been given by the respondent in all but one case. The appeal of the applicants would be dismissed however judicial review proceedings to be taken by (B) should go ahead and the Minister's cross-appeal in relation to this matter would be dismissed.

*Short Description*

Three applicants brought judicial review proceedings seeking to quash deportation orders against them because the Minister had not supplied sufficient reasons for why he proposed to deport them. The Supreme Court held that the Minister had supplied adequate reasons except in the case of one applicant and that applicants are entitled to reasons for deportations upon being refused refugee status.

***Dascalu v Minister for Justice, Equality and Law Reform***

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High Court, 04/11/99  
 [2002] 1 ICLMD 5

*Description*

The Romanian applicant had been informed on behalf of the Minister that his application for refugee status was manifestly unfounded and was therefore refused. There was, however, no provision for finding a claim manifestly unfounded under the von Arnim procedure<sup>38</sup> that was in force at the time of Mr. Dascalu's application. The von Arnim procedure had since been replaced by the Hope Hanlan<sup>39</sup> procedure which provided for a finding that an application was manifestly unfounded.

The court held that the Minister was entitled to change procedures and was entitled to do so in respect of applications that had been made under the old procedures. However the Minister was required to inform the applicant individually that his application was now being dealt with under new

<sup>38</sup> Takes its name from a letter written in December 1985 on behalf of the Minister for Justice to the then representative of the UNHCR, Mr R. von Arnim, setting out an agreed procedure for the determination of refugee status in Ireland.

<sup>39</sup> The Hope Hanlan procedure is set out in a letter sent in December 1997 from the Department of Justice, Equality and Law Reform to Ms Hope Hanlan, who was the UNHCR representative at the time. This letter set out the procedures to be followed when deciding applications for refugee status (replacing the previous von Arnim procedures which were deemed to be insufficient to cope with increasing numbers of applications) and for the first time mentioned accelerated procedures for dealing with "manifestly unfounded" asylum applications.

procedures which provided for the possibility of finding the claim to be manifestly unfounded. The applicant was granted judicial review because it was held that the Minister for Justice was at fault in not notifying the applicant individually of this fact.

*Short Description*

The applicant's application for refugee status had been found manifestly unfounded. The process was started, however, under the von Arnim procedure not the Hope Hanlon procedure which provides for such a 'manifestly unfounded' decision. The deportation order was quashed on the basis that the Minister for Justice was at fault in not notifying the applicant of that fact.

***Gutrani v Minister for Justice***

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Supreme Court 01/01/1993  
[1993] 2 IR 427

*Description*

The case of *Gutrani v Minister for Justice* is notable because it resulted in the von Arnim letter being upheld as creating a binding obligation upon the Minister of Justice by the Supreme Court. The von Arnim letter<sup>40</sup> was written in December 1985, on behalf of the Minister for Justice, to the then representative of the UNHCR, Mr. R. von Arnim. It set out an agreed procedure for the determination of refugee status in Ireland. The Judge commented 'Having established such a scheme, however informally, he [the Minister] would appear to be bound to apply it to appropriate cases and his decision would be subject to judicial review.'

*Short Description*

In *Gutrani v Minister for Justice* the Supreme Court held that the von Arnim letter, written in December 1985 on behalf of the Minister for Justice to the then representative of the UNHCR, Mr. R. von Arnim was binding on the Minister. This letter set out an agreed procedure for the determination of refugee status in Ireland.

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**5.3  
Time Limits**

***Saalim v Minister for Justice, Equality and Law Reform***

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Supreme Court, 05/03/2002  
[2002] 6 ICLMD106

*Description*

In the case of *Saalim v Minister for Justice* the applicant appealed against the High Court's refusal to extend time for leave to apply for judicial review. The High Court found that although the fault had been the solicitor's rather than the applicant's, this was not sufficient reason. The Supreme Court in allowing the appeal held that there were "good and sufficient reason"(s) for extending the time for the application for judicial review. The applicant had an arguable case, the extent of the delay was short, the case straddled a time of transition in the law, the reasons for the delay were largely the culpability of legal advisors, and the State was not prejudiced by the delay. It was made clear however that the fact that the applicant was not to blame for the delay was not in itself sufficient reason to extend time limits.

<sup>40</sup> See note 38.

*Short Description*

In the case of *Saalim v Minister for Justice* in respect of one applicant, the Supreme Court allowed an appeal against a High Court refusal to extend time for leave to apply for judicial review. It was held there were “good and sufficient reason’s) to extend the time limits. It was made clear that the fact that the applicant was not to blame for the delay was not in itself a sufficient reason.

***B. v Governor of the Training Unit Glengriff Parade***

Supreme Court, 05/03/2002  
[2002] IESC 16

*Description*

The current case is one taken further to a decision by the Supreme Court whereby in cases the High Court refuses to extend time under section 5 (2)(a) of the 2000 Act there is no requirement to seek the leave of the High Court to appeal ([2002] IESC 5) 30th January, 2002). It was argued that the notification requirements of the statutory provisions of the *Illegal Immigrants (Trafficking) Act 2000* were not complied with. The appellant made his original asylum application at a Dublin address. He later moved to Dundalk and registered there with the Gardai. The deportation notice was sent to the Dublin address. The appellant argued that since the Act of 2000 came into force, the notice of deportation should have been given to him at the address he notified in September 2000 to the Immigration Officer at Dundalk Garda Station. Without that, he alleged, the deportation order was never notified to him. The court rejected his argument and the appeal was dismissed.

*Short Description*

The applicant was appealing against the determination of the High Court not to extend time. In *B. v Minister for Justice* it was decided that the refusal by the High Court of an extension of time was appealable to the Supreme Court even without leave of the High Court. The Supreme Court appeal was dismissed.

***G.K v Minister for Justice, Equality and Law Reform***

High Court, 06/03/2001  
Supreme Court, 7/12/2001  
[2002] 1 ILRM 401; (High Court [2002] 1 ILRM 81)

*Description*

In the case of *G.K. v Minister for Justice, Equality and Law Reform* the High Court had granted an extension of time to the applicants to judicially review a refusal of asylum by the appeals authority, and a decision of Minister to make a deportation order. The Judge listed the factors he considered relevant in determining applications of this nature:

- The period of the delay;
- Whether the delay was inexcusable and if so, whether the balance of justice was in favour of or against granting an extension;
- The prima facie (at first sight) strength of the applicant’s case;
- The complexity of the legal issues;
- Language difficulties and difficulties obtaining an interpreter; and
- Any other personal circumstances affecting the applicant.

The respondents (the State) then obtained an order to appeal the decision of the High Court to the Supreme Court and the appeal was allowed.

The Supreme Court refused the extension of time. The court held that the applicant had delayed for a period of nearly a year, during most of which time the applicant was legally represented and no reason was provided for the delay. The court found that the time limits could only be extended where the High Court considers that there is good and sufficient reason for extending the period and where the substantive claim is arguable. In this case the applicant's ground for seeking the relief was that the minister did not consider representations for leave to remain in the State. It was held that they could show no arguable case in relation to this ground. The Supreme Court held that no extension of time would be granted to the applicant.

*Short Description*

In the case of *G.K. v Minister for Justice* the High court had granted an extension of time to judicially review a refusal of asylum by the appeals authority and a decision of Minister to make a deportation order. The State then obtained a certificate to appeal the decision of the High Court and the appeal was allowed. No extension of time would be granted to the applicant.

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5.4  
The Appeal  
Stage

***Atanasov, Njukea Fontu, Opesyitan v Refugee Appeals Tribunal, Minister for Justice, Equality and Law Reform, Attorney General***

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High Court 07/07/2005  
Unreported

***Description***

In each of these three cases the Refugee Appeals Tribunal (RAT) declined to furnish the applicants with copies of previous decisions made by the Tribunal. The respondents argue that there is no mandatory obligation to do so due to reasons of confidentiality (the asylum applicant involved in the previous ruling is protected from being identified under section 19 of the 1996 Refugee Act). The Refugee Act 1996 provides that the Chairperson of the RAT may decide not to publish a decision of the Tribunal which in his or her opinion is not of legal importance and that any decisions that are published must be fully anonymised.

In this ruling the Judge established the right of a non-national to natural justice and to fairness of procedures and held that administrative difficulties in affording fair procedures are not sufficient reason not to do so. He held that the provision in the 1996 Refugee Act (as amended in 2003) for the Chairperson not to publish certain decisions envisaged publication of *some* decisions. The point that the RAT hearings and decisions are neither conducted nor delivered in public was stressed. The Judge held that conformity and consistency in decision-making are essential facets of fair procedures in a quasi-judicial process of this nature and that these could not be achieved without access to previous decisions. The applicant for judicial review was granted. This ruling is currently being appealed to the Supreme Court.

*Short Description*

The Judge found that unsuccessful applicants for asylum are entitled to have access to previous rulings made by the Refugee Appeals Tribunal.

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***M (A) & E (G) v The Chairperson of the Refugee Appeals Tribunal & Ors***

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High Court 29/07/2004

Unreported

*Description*

Two separate claims for judicial review were heard together. The applicants failed to receive a positive recommendation from the Office of the Refugee Applications Commissioner and appealed to the RAT where they each received an oral hearing before a Member of the RAT. However prior to receiving any decision from that Member an oral hearing was rescheduled before another Member. No explanation was provided for the rescheduling. Accordingly, each applicant sought an order compelling the first Member to make and give a decision in their appeals and an order of certiorari of the decision of the Chairperson to reassign the hearing and determination of their appeals.

The Court granted the orders sought by the applicants. It was held that the first Member was, as a division of the RAT, obliged to determine the appeals of the applicants whose oral hearing he had heard. This Member was deemed to have breached his duty to the applicant to determine the appeal within a reasonable period. It was found that under the circumstances the Chairperson of the RAT did not have an implicit power to reassign the cases and his decision to do so was ultra vires.

*Short Description*

A Member of the RAT is obliged to determine the appeals of the applicants whose oral hearing he had heard. Under the circumstances the Chairperson of the RAT did not have an implicit power to reassign the cases and his decision to do so was ultra vires.

***Iwuala v Minister for Justice, Equality and Law Reform***

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Supreme Court 14/07/2003

[2004] 1 ILRM 27

*Description*

The appellant had applied to the High Court for *inter alia*, an order of certiorari quashing the decision of the Minister to refuse her refugee status. She also sought declarations that section 16 (regarding appeals to the appeal board) and 17.1 (regarding the declaration that person is a refugee) of the Refugee Act 1996 were repugnant to the Constitution.

The High Court refused to grant the reliefs sought but certified that its decision involved a point of law of exceptional public importance. It was held therefore that it was desirable that an appeal should be taken to the Supreme Court. The United Nations High Commissioner for Refugees ('the UNHCR') applied to the Supreme Court for leave to appear as *amicus curiae*<sup>41</sup> in the appeal. This was the first time the UNHCR had taken such a step. The Supreme Court agreed that an issue of public law had arisen and the UNHCR might be in a position to assist the court by making written and oral submissions on the question of law certified by the High Court provided the UNHCR bore its own costs.

<sup>41</sup> Amicus curiae refers to a "friend of the court", a person who is not a direct party to an action but who is permitted to make submissions.

*Short Description*

This judgment deals with an application made by the UNHCR for leave to appear as *amicus curiae*<sup>42</sup> in the appeal. This was the first time the UNHCR had taken such a step. The Supreme Court agreed that an issue of public law had arisen and the UNHCR might be in a position to assist the court by making written and oral submissions on the question of law certified by the High Court provided the UNHCR bore its own costs.

***Okafu v Refugee Appeals Tribunal***

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High Court, 04/10/2002  
[2003] 1 ICLMD 83

*Description*

The applicant, a Nigerian national, claimed that the Refugee Applications Commissioner member who conducted his initial interview misunderstood his evidence. The applicant sought leave to apply for judicial review on the ground that the Refugee Applications Tribunal should have explained a decision not to call the Refugee Applications Commissioner member responsible for the reports.

The court held that a reasoned ruling or judgment on why the Refugee Applications Commissioner member was not called should have been given. Leave to apply for judicial review was granted. The Judge stated that there may be cases of exceptional circumstances where it is preferable to allow an interviewer to be cross examined. He also highlighted the fact that it is within the Tribunal's discretion to refuse such a request but not without offering a 'reasoned judgment' on such a decision.

*Short Description*

The applicant claimed that the Refugee Applications Tribunal should have made a reasoned ruling on the decision not to call the Refugee Applications Commissioner member who the applicant claimed misunderstood his evidence. The court held that a reasoned ruling or judgment on why the Refugee Applications Commissioner member was not called should have been given and leave to apply for judicial review was granted.

***Nicolaev v Refugee Appeals Tribunal and the Minister for Justice, Equality and Law Reform***

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High Court, 08/07/2002  
[2002] 8 ICLMD 91

*Description*

The applicant applied for leave to challenge by way of judicial review the decision of the Refugee Appeals Tribunal to refuse him refugee status. He argued that the Refugee Appeals Tribunal did not properly consider his case and reached conclusions unsupported by evidence. He wanted the original interviewer to be compelled to attend the appeal hearing as a witness.

The court held that the Tribunal could not be compelled to call the interviewer and that there was no lack of fair procedures. The Judge stated: "There is no injustice to an applicant, who, prior to the appeal hearing, has all the appropriate documentation which his application has generated, including the S.11 (2) and S.13 (1) reports and recommendation, in not having an

<sup>42</sup> See note above.

opportunity to cross-examine extended to the extent of a total burden.” The court held that the appeal hearing was an independent *de novo* investigative process and it was for the member of the Tribunal to make his own assessment no matter what view the original interviewer may have formed.

*Short Description*

The applicant claimed a lack of fair procedures in not being afforded an opportunity to cross-examine the original interviewer from the Refugee Applications Commissioner at his appeal. The court held that there was no lack of fair procedures and that the appeal hearing was an independent *de novo* investigative process.

***Raiu v Refugee Appeals Tribunal and Minister for Justice, Equality and Law Reform***

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High Court, 25/04/2002  
[2002] 7 ICLMD 79

*Description*

In the case of Raiu and others v the Refugee Appeals Tribunal and others, the applicants had their application for refugee status refused at first instance and appealed the decision to the Tribunal. The applicants argued that their right to fair procedures was infringed by the refusal of the Tribunal to grant them access to previous decisions. An injunction was sought restraining the Refugee Appeals Tribunal from proceeding with the hearing of the applicants’ appeals until previous decisions of the Refugee Appeals Tribunal were furnished to the applicants. Such access had been refused on the ground, *inter alia*, of the constraints imposed by section 16(4) (‘An oral hearing under this section shall be held in private’) and section 19 (regarding the protection of the identity of applicants) of the Refugee Act of 1996. The applicants submitted that the Constitution Art 40.1, guaranteeing equality before the law, necessitated the publication of decisions.

The court held that the refusal to make available judgments of the Refugee Appeals Tribunal in cases other than the applicant’s was not unlawful and in particular was not in breach of the applicant’s right of access to the courts and was not in breach of the principles of natural justice.

*Short Description*

An injunction was sought restraining the Refugee Appeals Tribunal from proceeding with the hearing of the applicants appeals until previous decisions of the Refugee Appeals Tribunal were furnished to the applicants. The court held that the decision of the Refugee Appeals Tribunal not to furnish its decisions was not invalid and the injunction was denied.

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**5.5  
Manifestly  
Unfounded  
Issues**

***Z. v Minister for Justice, Equality and Law Reform***

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Supreme Court, 01/03/2002  
[2002] 5 ICLMD 115

*Description*

In the case of Z. v Minister for Justice, Equality and Law Reform the appellant’s case was deemed to be manifestly unfounded. The appellant appealed against the High Court judgment and deportation order on a number of grounds. These included that the accelerated procedure for asylum applications considered manifestly unfounded was unfair because there was no

provision for an oral hearing. It was held that in view of the procedures for manifestly unfounded claims, which exist, and the fact that the procedure exists for claims without foundation, the absence of a provision for an oral hearing is not unfair. The court held that the lack of oral hearing does not infringe the right of an asylum applicant to natural and constitutional justice.

*Short Description*

In the case of *Z. v Minister for Justice, Equality and Law Reform* the appellant appealed against the High Court judgment and deportation order on a number of grounds. These included that the accelerated procedure for asylum applications considered manifestly unfounded was unfair because there was no provision for an oral hearing. The court held that this fact does not infringe the right of an asylum applicant to natural and constitutional justice.

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**5.6  
Criteria to be  
Met to Attain  
Refugee Status**

***Edionewe v Refugee Appeals Tribunal and the Minister for Justice, Equality and Law Reform***

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High Court 21/10/2004  
Unreported

*Description*

The applicant who was from Nigeria had made an application for refugee status which was mainly rejected on the grounds of lack of credibility. She applied for leave to seek judicial review proceedings. The applicant's claim for asylum had mainly been rejected on the grounds of the lack of credibility. Counsel for the applicant argued that there had been an over reliance on the part of the RAT on the fact that the applicant's mother had previously made an application for asylum in Ireland which had been turned down. It was contended that the RAT had failed to separately assess the applicant's credibility and that there was evidence that the applicant had suffered a sexual assault in her native country. The court granted leave to bring judicial review proceedings finding that it was likely that the Tribunal Member had failed to give proper weight to the sexual assault that the applicant had suffered and the possible effect on the applicant to tell her story and recall events. In addition there had been factual errors made by the Tribunal Member and a failure to take account of the applicant's youth, her lack of education and illiteracy.

*Short Description*

The applicant had made an application for refugee status which was mainly rejected on the grounds of lack of credibility. Counsel for the applicant argued that there had been an over reliance on the part of the RAT on the fact that the applicant's mother had previously made an unsuccessful asylum application. It was also argued that the applicant had suffered a sexual assault in her native country. The court granted leave to bring judicial review proceedings finding that it was likely that the Tribunal Member had failed to give proper weight to the sexual assault that the applicant had suffered.

***Majokolason v Refugee Appeals Tribunal***

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High Court, 04/10/2002  
[2003] 1 ICLMD 82

*Description*

In the case of *Majokolason v the Refugee Appeals Tribunal* the applicant applied for leave to judicially review the decision by a member of the Refugee



Appeals Tribunal upholding a declaration that the applicant's claim for refugee status was manifestly unfounded. The court held that the applicant had to demonstrate a 'current well-founded fear of persecution for a Convention reason' to be declared as a refugee. The court referred to the UK case *Adan v Secretary of State for the Home Office* which found that an 'historic fear' was not sufficient for recognition as a refugee. ([1998] 2 W.L.R. 702). Leave to apply for judicial review was refused.

*Short Description*

In the case of *Majokolason v the Refugee Appeals Tribunal* the applicant applied for leave to judicially review a decision by the Refugee Appeals Tribunal upholding a manifestly unfounded finding. The court held that the applicant had to demonstrate a 'current well-founded fear of persecution for a Convention reason' to be declared a refugee and that an 'historic fear' was not sufficient.

***F.A. v Minister for Justice, Equality and Law Reform and Appeals Authority***

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High Court, 21/12/2001

[2002] 5 ICLMD 108

*Description*

In the case *F.A. v Minister for Justice and Appeals Authority* the issue was raised of whether an applicant for refugee status must show a real likelihood of persecution or a reasonable degree of likelihood of persecution. In addition the applicant, a Sierra Leonean national, alleged that the Appeal Authority was biased in its adjudication and was not independent of the Minister.

The court held that the relevant paragraph 42 of the UNHCR handbook had been correctly applied in the applicant's case and that no essential difference existed between the standard as applied in the U.S., Australia or England. The court found that the Minister had applied the correct standard of proof in assessing whether the applicant had established on the balance of probabilities a "reasonable likelihood" of persecution if returned to his or her own country. The court held that there was no breach of the principle of 'nemo iudex in causa sua' (nobody should judge in his own case) i.e. there was no bias in the decision made as the Minister had no particular interest in the outcome of the process.

*Short Description*

In the case *F.A. v Minister for Justice and Appeals Authority* the issue was raised of whether an applicant for refugee status must show a real likelihood of persecution or a reasonable degree of likelihood of persecution. The applicant also alleged that the Appeal Authority was biased in its adjudication. The court held that the Appeal Authority in applying its test was correct and there was no bias in the decision made as the Minister had no particular interest in the outcome of the process.

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5.7  
Service  
Provision and  
Errors

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***Sibiya v The Minister for Justice, Equality and Law Reform***

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High Court 02/12/2004  
Unreported

*Description*

The Court found that the deportation order was valid despite failing to state the country to which the applicants were to be returned because there would be no question of deporting the applicants anywhere than to the Republic of South Africa.

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***S (C) ( a minor) v Minister for Justice, Equality and Law Reform***

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Supreme Court 27/07/2004  
[2004] IESC 44

*Description*

The applicants were granted leave to apply for judicial review by the High Court challenging, *inter alia*, their deportation. In granting leave, the High Court also extended the fourteen day time limit provided for in the Illegal Immigrants (Trafficking) Act 2000 for making judicial review leave applications. The High Court certified that the following issue raised in this case was one of exceptional public importance: 'The deportation order does not indicate to where the applicants are to be deported. Insofar as the form of the order is determined by the Immigration Act 1999 (Deportation) Regulations 2002 those regulations are ultra vires and void.' The Supreme Court dismissed the appeal by the Minister in relation to the extension of time. It was found that when considering whether there was good and sufficient reason to extend time the court should consider the merits of the substantive case and not simply the merits of the application to extend time. The Supreme Court found that the conclusions of the High Court had been reached by a proper exercise of its discretion.

*Short description*

The Supreme Court found that when considering whether there was good and sufficient reason to extend time limits the court should consider the merits of the substantive case and not simply the merits of the application to extend time.

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***Duba v Refugee Appeals Tribunal***

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High Court, 22/01/2003  
[2003] 3 ICLMD 56

*Description*

The applicant applied for judicial review in relation to the decisions of the Minister for Justice, Equality and Law Reform to refuse her refugee status and to deport her. The Refugee Commissioner had recommended that her application be refused. The applicant had been informed that she could appeal within 15 working days. She met with the representative of a local asylum seekers' support group but there was a misunderstanding and the applicant averred that it was her belief that the notice of appeal had been lodged on her behalf.

The court granted the application acknowledging that the applicant had done everything that could be expected of her. The court noted that the

applicant had in no sense contributed to the appeal being out of time, and had consequently suffered an injustice. In this case the applicant had been failed by a person whose role amounted to that of legal advisor. The court noted in addition that the statutory provisions governing the powers of the Refugee Appeals Tribunal and the Minister must, insofar as possible, be interpreted as being intended to accord with the principles of constitutional justice. This included the right to fair procedures.

*Short Description*

The applicant applied for judicial review in relation to the decisions of the Minister for Justice, Equality and Law Reform to refuse her refugee status and to deport her. She had missed the deadline for lodging an appeal with the Refugee Appeals Tribunal but through no fault of her own. The court granted the application acknowledging that the applicant had done everything that could be expected of her.

***Munteanu v Minister for Justice, Equality and Law Reform***

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High Court, 30/07/2002  
[2002] 10 ICLMD 51

*Description*

The applicant, a Moldovan national, applied for judicial review of her deportation order. She had failed to attend an interview with the Refugee Applications Commissioner after three requests were sent to the address she had supplied. Shortly after arrival in Ireland she and her companion, who she later married, were transferred to a different address by the Reception and Integration Agency. Her husband-to-be had notified the authorities of his change of address and his asylum application was progressed. The applicant did not. She argued that there was no necessity on her part to notify the Department of a change of address, in circumstances where the Department had provided the applicant with a new address and directed her to go there.

The court refused the application for judicial review and held that there was a clear obligation on the applicant pursuant to the Immigration Act 1999 s.6 to notify the Minister of a change of address. The Judge observed that in the absence of a detention policy the notification of a change of address was the method by which applicants could participate in the asylum process while having some freedom of movement. The Reception and Integration Agency was a separate and distinct entity from that of the Refugee Applications Commissioner or the Minister. In addition the marriage of the applicant and her partner was deemed to be not relevant in the circumstances.

*Short Description*

The applicant argued that there was no necessity on her part to notify the Department of a change of address in circumstances where the Department had provided the applicant with a new address and directed the applicant to go there. The court held that there is an obligation on the applicant to notify the Respondent of a change of address and this she did not do.

***Stefan v Minister for Justice, Equality and Law Reform***

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High Court, Supreme Court, 08/06/2000, 13/11/2001  
[2002] 1 ICLMD 5.

*Description*

In the case of *Stefan v Minister for Justice*, the applicant was refused asylum at first instance. However, the material used in reaching this decision was defective in that the English translation of the Romanian questionnaire form omitted a portion of the answer to Question 84. This question provides the applicant with an opportunity to set out the basis of his claim.

The applicant appealed to the Appeals Authority, and this appeal was still pending when the matter came on for judicial review. The court held that the defect rendered the decision at first instance either ultra vires (beyond) or in breach of fair procedures. The court also rejected the argument that the appeal to the Appeals Authority constituted an adequate alternative remedy to that of judicial review, on the basis that “an insufficiency of fair procedures at first instance is not cured by a sufficiency on appeal”.

The matter was remitted for fresh consideration to the Commissioner with costs to the applicant. The Minister appealed to the Supreme Court. The Supreme Court refused the appeal and held that certiorari (quashing order) would lie against the decision at first instance given that the Hope Hanlon procedure involved two separate decisions, one by the person authorised by the Minister and the other by the Appeals Authority.

*Short Description*

In relation to an error (whereby the English translation of the Romanian asylum application questionnaire form omitted a portion of an answer) the High Court held that the defect rendered the decision of the Commissioner either ultra vires or in breach of fair procedures. The court rejected the argument that the information omitted was of so little relevance that certiorari (quashing order) should not be ordered.

***Gabrel v Minister for Justice, Equality and Law Reform***

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High Court, 15/03/2001  
[2001] 6 ICLMD 55

*Description*

In *Gabrel v Minister for Justice*, the court refused an extension of time for applying for judicial review where the applicant had been represented at all stages. It was argued that the applicant did not apply for judicial review due to the lack of diligence of her legal advisors. The court held that a litigant is vicariously liable for the default of his legal advisors (with some exceptions) and that in this case there was no good reason for extending time. The applicant was however granted judicial review because the deportation order with which she was served was defective and null and void by reason of its failure to state date of the proposed deportation and the country to which she was to be deported.

*Short Description*

It was argued that the applicant did not apply for judicial review due to the lack of diligence of her legal advisors. The court held that a litigant is vicariously liable for the default of his legal advisors (with some exceptions) and that in this case there was no good reason for extending time. The applicant was

granted judicial review because the deportation order failed to state date of the proposed deportation and the country to which she was to be deported.

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**5.8  
Dublin  
Convention/  
Dublin II  
Regulation**

***Ymedji v Minister for Justice, Equality and Law Reform & Ors***

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High Court, Supreme Court: 18/12/2002, 01/12/2003  
[2004] 1 ILRM 151

*Description*

Article 10(1)(e) of the Dublin Convention provides *inter alia* that Member States are obliged to take back an applicant who has withdrawn their application and lodged an application in another Member State and a non-national whose application it has rejected and who is illegally in another Member State.

The applicant applied for asylum status in Ireland. He had previously been refused asylum status in Germany and the ORAC determined he should be returned to Germany. The applicant appealed the decision to the RAT who dismissed the appeal. The applicant applied for relief by way of judicial review against both decisions. The High Court granted the relief sought on the grounds that the decisions of the ORAC and RAT were predicated upon a request made to Germany that was *ultra vires* (beyond) the powers of the ORAC and RAT. The Court found that the request had been made pursuant to a provision of the Dublin Convention which had not been implemented in Ireland, i.e. article 10(1)(e).

The High Court certified that its decision involved points of law of exceptional public importance and that it was desirable in the public interest that an appeal should be taken to the Supreme Court. The points deemed to be of exceptional public importance were (i) whether or not Article 10.1.e of the Dublin Convention had been incorporated into the law of the State and (ii) whether the ORAC or RAT had jurisdiction to make or uphold a decision that Germany be requested to take back the applicant. The Supreme Court dismissed the appeal and upheld the jurisdiction of the RAT and ORAC in this regard.

*Short Description*

The applicant had previously been refused asylum status in Germany and the ORAC determined he should be returned to Germany. The applicant appealed the decision unsuccessfully to the RAT. The High Court granted judicial review on the grounds that the decisions of the ORAC and RAT were predicated upon a request made to Germany that was *ultra vires* (beyond) the powers of the ORAC and RAT. The High Court certified that its decision involved points of law of exceptional public importance. The Supreme Court dismissed the appeal and upheld the jurisdiction of the RAT and ORAC in this regard.

***Savin v Minister for Justice, Equality and Law Reform***

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High Court, 07/05/2002  
[2002] 8 ICLMD 84

*Description*

The applicant had a visa for entry into Germany and came to Ireland and applied for asylum. It was decided by the Refugee Applications Commissioner that the provisions of the Dublin Convention applied. The applicant raised a number of issues. The applicant claimed that the Refugee Applications

Commissioner should have conducted an interview prior to deciding that the Convention applied, rather than deciding on the basis of the questionnaire. The decision also concerned the issue of family unity when making decisions under the Convention as the applicant's husband was having his case assessed in Ireland.

The court held that there was no obligation on the Commissioner to hold an interview because there was no inhibition on the applicant presenting whatever evidence she considered relevant to the Commissioner. The court also held that there is no necessary inhibition in the applicant being returned to Germany to have her application considered there while her husband's application is determined in this State. In addition it was stated that the decision of the Refugee Appeals Tribunal does not have to be discursive.

*Short Description*

The applicant had a visa for entry into Germany and came to Ireland and applied for asylum. It was decided by the Refugee Applications Commissioner that the provisions of the Dublin Convention applied. The applicant claimed an interview should have been conducted prior to deciding that the Convention applied. In addition the applicant's husband was having his case assessed in Ireland and she wanted to stay with him. The court refused both arguments.

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**5.9  
The European  
Convention on  
Human Rights  
and Association  
Agreements**

***Goncescu and others v Minister for Justice, Equality and Law Reform***

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High Court, 24/06/2002  
Supreme Court, 30/07/2003  
[2003] IESC 44, (High Court, [2002] 8 ICLMD 88)

*Description*

The Romanian and Czech applicants sought to quash deportation orders made against them on the grounds that the orders were contrary to their rights of establishment under European law. The applicants contended that they had effective rights of establishment under European Association Agreements between the European Union and candidate countries seeking membership of the Union.<sup>43</sup>

The High Court refused to quash the deportation orders. The court held that it could not be the law that a person entering a State on one basis could, when plans don't work out, seek to convert a non-existent right to remain in the State into such a right, by invocation of European Agreements. The High Court held that the right of establishment was circumscribed by the European Agreement, which entitled Member States to apply their rules regarding entry and stay in the Member States. Although leave to apply for judicial review was refused the High Court certified that the case involved points of law of exceptional public importance and an appeal was heard and refused at the Supreme Court in July 2003.

The Supreme Court upheld the High Court findings and held that the system of prior control of applications for establishment by non-nationals by

<sup>43</sup> The European Communities and their Member States entered into a number of Association Agreements also described as Europe Agreements with a number of countries. These Agreements have the objective of promoting closer relations between those countries and the European Communities and with a view to the eventual integration of the former in the latter as new member states. The provisions of the Czech and Romanian Agreements which are relevant to these proceedings are identical. These agreements, and similar agreements made between the European Communities and other states, are variously referred to as Europe Agreements or Association Agreements.

Member States is compatible with the Europe Agreements. It was held that the appellants had no right to remain in the state, having been made the subject of deportation orders, for the purpose of seeking to make an application for establishment under those agreements. They are, however, entitled, as they always were, to make such applications from their home states. The court drew attention to the fact that at the time when all the appellants notified the Minister of their wish to exercise establishment rights under the European Agreements their applications for asylum had been terminated and they therefore at that point had no lawful entitlement to remain physically in the State.

*Short Description*

The Romanian and Czech applicants argued that they could exercise a right of establishment in Ireland under European Association Agreements between the European Union and candidate countries seeking membership of the Union. The court held that the Europe Agreement does not confer a right of access to the labour market of the EU States and that Member States were entitled to apply their rules regarding entry and stay in States. The case was appealed to the Supreme Court and the decision upheld.

***Adam and Ors v Minister for Justice, Equality and Law Reform, Ireland and the Attorney General***

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Supreme Court, 05/04/2001  
[2001] 2 ILRM 452

*Description*

In *Toma Adam and Ors v Minister for Justice, Equality and Law Reform* and *Ors* two groups of Romanian nationals were separately granted leave to apply for judicial review of their deportation orders. The second group was granted leave to apply for, *inter alia*, an order compelling the State to institute proceedings against Romania under the European Convention on Human Rights. In both cases the High Court held that the Convention was not part of Irish domestic law and that the Minister for Justice was not obliged to take account of it. The appeals by the two groups were held together. The Supreme Court upheld decisions of the High Court and rejected the suggestion that, when considering the applications for asylum, the respondents were obliged to take into account the Convention on the ground that same was not part of Irish domestic law and the Irish Courts had no part in its enforcement. It was found that general evidence of human rights abuses in a country is not in itself enough to prevent individuals being repatriated to that country. In order to be granted asylum an individual must show evidence that they personally are at risk of persecution.

*Short Description*

The Courts rejected the suggestion that, when considering the applications for asylum, the respondents were obliged to take into account the European Convention on Human Rights on the ground that it was not part of Irish domestic law and the Irish courts had no part in its enforcement. General evidence of human rights abuses in a country is not in itself enough to prevent individuals being repatriated to that country.

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**5.10  
Other*****Anisimova v Minister for Justice***

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High Court, Supreme Court: 18/02/1997, 28/11/1997  
[1998] 1 IR 186

*Description*

The applicant, a Russian national, left Moldova and travelled to the UK on a six-month visa. On landing in the UK however she travelled immediately to Ireland and claimed asylum. The Department of Justice argued that she should be deported to the UK unless she left Ireland voluntarily. The High Court found that State is entitled to return a person who intends to apply for asylum in Ireland to the first safe country they resided in after fleeing their home provided that that the 'safe country' is willing and able to hear the person's asylum application. The Supreme Court upheld this finding on appeal.

*Short Description*

The Irish State is entitled to return a person who intends to apply for asylum in Ireland to the first safe country they resided in after fleeing their home provided that that the 'safe country' is willing and able to hear the person's asylum application.

***State (Goertz) v Minister for Justice and Governor of Mountjoy Prison***

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High Court, Supreme Court: 23/04/1947, 05/05/1947  
[1948] IR 45

*Description*

Mr. Goertz arrived in Ireland without permission in 1940 and remained undetected for over a year. He was then arrested and detained for five years. In 1946 he was released and worked for a time as a secretary in Ireland. The Minister for Justice issued orders in 1947 for Mr. Goertz's arrest, detention and deportation back to Germany. Mr. Goertz argued that a person ordinarily resident in Ireland should be given three months notice of a proposed deportation. The High Court found that the five year period of detention could not be treated as a period of ordinary residence and refused to quash the deportation order. The Supreme Court upheld this finding.

*Short Description*

Mr. Goertz argued that a person ordinarily resident in Ireland should be given three months notice of a proposed deportation. The High Court found that the five year period of detention could not be treated as a period of ordinary residence and refused to quash the deportation order. The Supreme Court upheld this finding.



# 6. IMPLEMENTATION OF EU LEGISLATION IN IRELAND

The Treaty of Amsterdam came into force in May 1999 and it gave the European Community its greatest competence to date in asylum and immigration matters. There have been several developments at EU level relating to immigration in the last few years. The main directives which have been agreed are on, family reunification, the status of long-term residents, the victims of trafficking and the admission of students. The application of the new Title IV of the EC Treaty to Ireland and the UK is subject to the provisions of a fourth Protocol to the Treaty of Amsterdam. This fourth Protocol means that Ireland has three months from the date a proposal or initiative is presented to the Council by the Commission to notify the President of the Council in writing of its wish to take part.

Ireland has the right to participate fully in discussions whether it opts in or not. While opting out excludes Ireland from the final vote on the adoption of an instrument, it may still accept a measure at any stage after it has been adopted. Ireland made a declaration at the time the Amsterdam Treaty was signed that makes it clear that it intended to opt in to measures pursuant to the Title IV of the Treaty as long as they are compatible with the Common Travel Area with Britain.

There are also certain areas of EU legislation in which Ireland does participate fully and which will require action and legislative change in Ireland. These include, the introduction of a uniform format of visas and residence permits (including the incorporation of biometric identifiers), passenger data obligations on carriers, joint operations on border controls, and the creation of an immigration liaison officer network.

The *Outline Policy Proposals for a New Immigration and Residence Bill* (Department of Justice, Equality and Law Reform, 2005) indicates that the new Irish legislation should also take account of imminent European developments. A Directive on the admission of researchers is expected to be agreed shortly and a revised proposal for a Directive on the admission of workers is likely to follow the Commission's green paper on economic migration (published in January 2005). The Department of Justice, Equality and Law Reform also observes that the draft Services Directive, currently being debated by Council, will have implications for Irish companies employing non-EU workers. Regarding free movement of persons within the EU, there was agreement in 2004 on a Directive on the Free Movement of EU Citizens and their Family Members. This applies automatically to Ireland and there is a requirement for this to be transposed into national legislation by 30<sup>th</sup> April 2006. Table 8 provides a summary of where Ireland has opted in or out of Measures in relation to Asylum and Migration.

**Table 8: EU Measures in Relation to Asylum and Migration, Ireland's Participation**

Reference	Title of that Treaty	<b>Opt-in Deadline</b> (relevant to exercise of the opt-in under Art 3 of the fourth Protocol only i.e. before the instrument is adopted)	Adopted	Did Ireland opt-in (Y/N)? Opt-in under Art. 3 of the fourth Protocol of the Treaty establishing the European Community unless otherwise specified
<i>Asylum Proposals</i>				
COM(2002)326 /final/2	Amended proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing asylum status	14.2.00	30.4.04	Y
Council Directive 2003/9/EC	Council Directive laying down minimum standards on the reception of applicants for asylum in Member States.	29.8.01	27.1.03	N
Council Decision 2001/258/EC	Council Decisions concerning the conclusion of an Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or Iceland or Norway	23.2.01	15.3.01	Y
Council Decision 2000/596/EC	Council Decision establishing a European Refugee Fund	25.4.00	28.9.00	Y
Council Decision 2004/904/E	Council Decision establishing the European Refugee Fund for the period 2005-2010	12.5.04	29.11.04	Y
Council Regulation (EC) No 2725/2000	Council Regulation (EC) Concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention	13.10.99	11.12.00	Y
Council Directive 2001/55/EC	Council Directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof	5.10.00	20.7.01	Y
Council Regulation (EC) no 343/2003	Council Regulation establishing the criteria and mechanisms for determining the Member State	03.11.01	18.2.03	Y

Reference	Title of that Treaty	<b>Opt-in Deadline</b> (relevant to exercise of the opt-in under Art 3 of the fourth Protocol only i.e. before the instrument is adopted)	Adopted	Did Ireland opt-in (Y/N)? Opt-in under Art. 3 of the fourth Protocol of the Treaty establishing the European Community unless otherwise specified
	responsible for examining an asylum application lodged in one of the Member State by a third country national.			
Council Directive 2004/83/EC	Council Directive on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.	14.2.02	29.4.04	Y
Council Decision 2002/463/EC	Council Decision adopting an action programme for administrative cooperation in the fields of external borders, visa, asylum and immigration (ARGO programme)	N/A	13.6.02	Intend to opt-in under Art.4 of the fourth Protocol TEC subject to Parliamentary approval
Not published in OJ yet. Ref. no of Commission proposal: COM(2004)384 final	Council Decision amending Decision No. 2002/463/EC adopting an action programme for administrative cooperation in the fields of external borders, visa, asylum and immigration (ARGO programme)	N/A	13.12.04	Intend to opt-in under Art.4 of the fourth Protocol TEC subject to Parliamentary approval
<i>Migration (Admission) Proposals</i>				
COM/2002/02 25 Final	Amended Proposal for a Council Directive on the right to family reunification	21.4.00 (amended version produced in May 2002)	27.8.02	N
COM/2002/02 2 5 Final	Council Directive 2003/86/EC of the 22 of September 2003 on the right to family reunification.	21.4.00 (amended version produced in May 2002)	Adopted by Council on 22.9.03.	N
COM/2001/12 7 Final	Proposal for a Council directive concerning the status of third country nationals who are long term residents.	28.7.01	13.3.01	N
COM/2001/12 7 Final	Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.	28.7.01	25.11.03	N
COM/2001/38	Proposal for a Council Directive	12.12.01	27.11.01	Y

Reference	Title of that Treaty	<b>Opt-in Deadline</b> (relevant to exercise of the opt-in under Art 3 of the fourth Protocol only i.e. before the instrument is adopted)	Adopted	Did Ireland opt-in (Y/N)? Opt-in under Art. 3 of the fourth Protocol of the Treaty establishing the European Community unless otherwise specified
6 Final	on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities			
COM/2002/05 48	Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.	14.5.02	29.4.04	N
COM/2002/00 71 Final	Proposal for a Council Directive on the short-term residence permit issued to victims of action to facilitate illegal immigration or trafficking in human beings who cooperate with the competent authorities	14.5.02	11.2.02	N
COM/2002/05 48	Proposal for a Council Directive on the conditions of admission of third country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service.	9.1.02	13.12.04	N
COM (2004) 178 Final 2004 (0061) CNS	Proposal for a Council Directive on a specific procedure for admitting third country nationals for the purposes of scientific research	30.6.04	Political agreement reached 19.11.04, but not officially adopted yet.	Y
2004 (0062) CNS	Proposal for a Council Recommendation to facilitate the admission of third-country nationals to carry out scientific research in the EC.	30.6.04	Political agreement reached on 8.6.04, but not officially adopted yet.	N
2004/0063/CN S	Proposal for a Council Recommendation to facilitate the	30.6.04	Not yet adopted.	N

Reference	Title of that Treaty	<b>Opt-in Deadline</b> (relevant to exercise of the opt-in under Art 3 of the fourth Protocol only i.e. before the instrument is adopted)	Adopted	Did Ireland opt-in (Y/N)? Opt-in under Art. 3 of the fourth Protocol of the Treaty establishing the European Community unless otherwise specified
	issue by Member States of uniform short stay visas for researchers from third countries travelling within the European Community for the purposes of carrying out scientific research		A General Approach was reached in July 2004.	
<i>Migration (Expulsion) Proposals</i>				
Council Directive/2001/40/EC	Council Directive on the mutual recognition of decision concerning expulsion of third country nationals.	28.5.01	28.5.01	Ireland opted into this measure as part of its decision (28 Feb 2002) to join parts of the Schengen Acquis. Measure has not yet been transposed into Irish law.
	Proposal from the Federal Republic of Germany for a Council Directive on assistance in cases of transit for the purposes of removal by air (German Air Directive)	25.11.03	9.1.03	Ireland intends to opt in under Art.4 of Protocol 4.
Council Decision 2004/80/EC	Council Decision concerning the signing of the Agreement between the European Community and the Government of the (Hong Kong) Special Administrative Region of the People's Republic of China on the readmission of persons residing without authorisation & Proposal for a Council Decision concerning the conclusion of the Agreement between the European Community and the Government of the (Hong Kong) Special Administrative Region of the People's Republic of China on the readmission of persons residing without authorisation	23.9.02	17.12.03	Ireland opted in (28.2.02) as part of Schengen. (does not require domestic legislation).
Council Decision 2004/191/EC	Council Decision setting out the criteria and practical arrangements for the compensation of financial imbalances resulting from the	23.2.04	23.2.03	Ireland intends to opt in under Art.4 of Protocol 4 to the

Reference	Title of that Treaty	<b>Opt-in Deadline</b> (relevant to exercise of the opt-in under Art 3 of the fourth Protocol only i.e. before the instrument is adopted)	Adopted	Did Ireland opt-in (Y/N)? Opt-in under Art. 3 of the fourth Protocol of the Treaty establishing the European Community unless otherwise specified
	application of Council Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third country nationals.			Amsterdam Treaty.
Council Decision 2004/424/EC	Council Decision concerning the conclusion of the agreement between the European Community and the Government of the Macao Special Administrative region of the People's Republic of China on the readmission of persons residing without authorization	13.10.03	21.4.04	Ireland intends to opt-in under Art.4
	Proposal for a Council Decision concerning the signing of the agreement between the European Community and the Government of the Democratic Socialist Republic of Sri Lanka on the readmission of persons residing without authorisation and Council Decision concerning the conclusion of the agreement between the European Community and the Government of the Democratic Socialist Republic of Sri Lanka on the readmission of persons residing without authorisation.	25.11.03		Ireland intends to opt-in under Art.4
Council Decision 2004/573/EC	Council Decision on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders	29.5.04	29.4.04	Ireland opted in under Art.3 of Protocol 4 to the Amsterdam Treaty. Measure does not require domestic legislation.
	Proposal for a Council Decision establishing a secure web-based Information and Coordination Network for Members States' Migration Management Services (ICONet)	Delayed because of technical problems with text. Expected to be adopted soon.		Ireland will opt in after adoption under Art.4 of Protocol 4 to the Amsterdam Treaty.

Reference	Title of that Treaty	<b>Opt-in Deadline</b> (relevant to exercise of the opt-in under Art 3 of the fourth Protocol only i.e. before the instrument is adopted)	Adopted	Did Ireland opt-in (Y/N)? Opt-in under Art. 3 of the fourth Protocol of the Treaty establishing the European Community unless otherwise specified
	Proposal for a Council Decision concerning the signing of the Agreement between the European Community and the Republic of Albania on the readmission of persons residing without authorisation; and Proposal for a Council Decision concerning the conclusion of the Agreement between the European Community and the Republic of Albania on the readmission of persons residing without authorisation.	Adoption by Council awaited		Intend to opt-in under Art.4
<i>Visa Proposals</i>				
Council Regulation 2003/453/EC	Council Regulation listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.			N
	Proposal for a Council Regulation on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents which are not recognised by the Member State drawing up the form.	6.7..01		N
	Proposal for a Council Regulation laying down a uniform format for residence permits for third-country nationals.	2.1.04		Y
	Proposal for a Council Regulation laying down a uniform format for visas for third-country nationals.	2.1.04		Y
	Regulation reserving to the council the implementing powers to amend the Common Consular Instructions	None. This is a Schengen instrument.		N
	Freedom of Movement with a long stay visa	23.9.02		N
	Proposal for a Council Directive relating to the conditions in which third-country nationals shall have the freedom to travel in the	13.10.00		N

Reference	Title of that Treaty	<b>Opt-in Deadline</b> (relevant to exercise of the opt-in under Art 3 of the fourth Protocol only i.e. before the instrument is adopted)	Adopted	Did Ireland opt-in (Y/N)? Opt-in under Art. 3 of the fourth Protocol of the Treaty establishing the European Community unless otherwise specified
	territory of the Member States for periods not exceeding three months, introducing a specific travel authorisation and determining the conditions of entry and movement for periods not exceeding six months			
	Proposal for a Council Decision establishing the Visa Information System (VIS)	None. This is a Schengen building measure		N
	Proposal for a Council Regulation on standards for security features and biometrics in EU citizens' passports	None. This is a Schengen building measure		N
	Proposal for a Council Regulation on the establishment of a regime of local border traffic at the external land borders of the Member States	None. This is a Schengen building measure		N
	Proposal for a Council Regulation on the establishment of a regime local border traffic at the temporary land borders between Member States	None. This is a Schengen building measure		N
<i>Border Proposals</i>				
	Harmonisation of the financial penalties imposed on carriers transporting third country nationals	8.11.00		Y
	Council Directive defining the facilitation of unauthorised entry, movement and residence	4.11.00		N
	Proposal for a Council Decision adopting an action programme for Administrative Co-operation in the fields of External Borders, Visas, Asylum and Immigration (ARGO)	18 .1.01		N
	Initiative of the Kingdom of Spain with a view to adopting a council Directive on the obligation of carriers to communicate passenger data	26.6.03		This automatically applies to Ireland by virtue of Council Decision 2002/192/EC
	Initiative of the Hellenic Republic with a view to adopting a Council	3.9.03		N



Reference	Title of that Treaty	<b>Opt-in Deadline</b> (relevant to exercise of the opt-in under Art 3 of the fourth Protocol only i.e. before the instrument is adopted)	Adopted	Did Ireland opt-in (Y/N)? Opt-in under Art. 3 of the fourth Protocol of the Treaty establishing the European Community unless otherwise specified
	Regulation on the creation of an immigration liaison officers network			
	Draft proposal by Italy for uniform questionnaires to be used when accompanied minors pass entry/exit points at the external borders	Schengen Measure		N
	Proposal for a Council Regulation establishing a European Agency for the Management of operational co-operation at the External Borders	None. This is a Schengen building measure		N
	Draft Council Regulation laying down the requirement for the competent authorities of the Member States to stamp systematically the travel documents of third-country nationals when they cross the external borders of the Member States and amending the convention implementing the Schengen agreement and the common manual to this end	None. This is a Schengen building measure		N
	Initiative of the Italian Republic for a Council Decision on the amendment of Part II and the drawing up of Annex 16 to the Common Manual	None. This is a Schengen building measure		N
	Initiative of the Hellenic Republic for a Council Decision determining the minimum indications to be used on signs at external border crossing points	None. This is a Schengen building measure		N
	Council Regulation on a community code governing the movement of persons across borders (a.k.a. recasting of the Common Manual)	None. This is a Schengen building measure		N
<i>Visas/ borders/immigration (illegal)</i>				
2004/927/EC	Decision of the Council providing for certain areas covered by Title IV of Part Three of the Treaty establishing the European Community to be governed by the procedure referred to in Article 251	8.12.04 (actual opt-in date)	22.12.04	Y

# 7. AGENCIES/ INSTITUTES/ ORGANISATIONS DEALING WITH MIGRATION AND ASYLUM

## *Access Ireland*

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<b>Address</b>	Dominick Court, 41 Lower Dominick Street, Dublin 1, Ireland
<b>Telephone</b>	353-1-8780589
<b>Fax</b>	353-1-8780591
<b>Website</b>	<a href="http://www.accessireland.ie">http://www.accessireland.ie</a>
<b>email</b>	<a href="mailto:amm@accessireland.ie">amm@accessireland.ie</a>
<b>Category</b>	NGO

### *Objectives*

Access Ireland Refugee Social Integration Project was set up to address the question of refugee integration. The objectives of the project were: to highlight the positive contributions of refugees and the values of multi-culturalism in Irish society; to improve access to health and welfare services; to promote understanding amongst social and health care providers; to develop training materials to promote intercultural awareness; and to promote the development of refugee community initiatives.

### *Activities*

The Cultural Mediation Project run by Access Ireland aims to provide a cultural mediation and interpreting service with the goal of improving the utilisation of health and social services by people seeking refuge in Ireland. A women's project is also run by the organisation offering training, English classes and personal development.

### *Contact*

Ann Moroney

***Amnesty International (Irish Section)***


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**email** [info@amnesty.ie](mailto:info@amnesty.ie)  
**Category** NGO

*Objectives*

Amnesty International is an NGO working towards the full application of the Universal Declaration of Human Rights and other international human rights standards. Amnesty International undertakes research and action focused on preventing and ending human rights abuses.

*Activities*

Amnesty International is involved in a large number of awareness raising campaigns dealing with human rights abuses. In Ireland the most relevant research work that has been undertaken by Amnesty has been on the subject of racism. The organisation also occasionally interprets and condenses legislation relevant to immigration/asylum.

*Contact*

Fiona Crowley Research and Legal Officer

***Cáirde***


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**Telephone** 353 1 855 2111  
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**Website** <http://www.cairde.org>  
**Email** [info@cairde.ie](mailto:info@cairde.ie)  
**Category** NGO

*Objectives*

Cáirde is an NGO established to respond to the health needs of ethnic minority communities – mainly refugees, asylum seekers and immigrants. Cáirde attempts to address a wide range of issues that affect health including accommodation, education and training, employment, childcare, financial security, and broad asylum/immigration issues.

*Activities*

Cáirde runs a resource centre with computers, internet access, telephones, leaflets etc. It also has two core initiatives: Women's Health Action and Healthwise Community Impact (HCI), which involve research, awareness raising and training.

***Central Statistics Office***


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**Address** Central Statistics Office, Ardee Road, Rathmines, Dublin 6, Ireland  
**Telephone** 353-1-4984000  
**Fax** 353-1-4984229  
**Website** <http://www.cso.ie>

**Email** info@cso.ie  
**Category** State Body

*Objectives*

The Central Statistics Office is the Government body responsible for compiling Irish official statistics. The CSO collects, compiles, analyses and disseminates statistical information relating to the economic and social life of Ireland. The organisation is also responsible for co-ordinating the official statistics of other public authorities and for developing the statistical potential of administrative records.

*Activities*

The CSO regularly produces statistics in the following areas: Agriculture, Building and Construction, Distribution and Services, External Trade, Economy, Industry, Industrial Employment, Prices, Transport and Tourism, Vital Statistics, Demography and Labour Force as well as a variety of periodicals and publications. The last two categories have most relevance to the European Migration Network.

*Contact*

Aidan Punch Senior Statistician

***Centre for the Care of Survivors of Torture***

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**Address** 213, North Circular Road, Dublin 7, Ireland  
**Telephone** +353-1-8389664  
**Fax** +353-1-8683504  
**Website** <http://www.ccst.ie>  
**email** [clientservices@ccst.ie](mailto:clientservices@ccst.ie)  
**Category** NGO

*Objectives*

The Centre for the Care of Survivors of Torture (CCST) is a non-profit humanitarian organisation that provides multidisciplinary trauma healthcare, in co-operation with the statutory health services, free of charge to survivors of torture.

*Activities*

The CCST offer medical consultations, medico-legal reports, psychiatry, counselling, physiotherapy, physical therapy and various complementary therapies, Chinese medicine and group therapies. The Centre also runs an outreach service and provides vocational guidance counselling.

***Chambers of Commerce Ireland***

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**Address** 17 Merrion Square, Dublin 2, Ireland  
**Telephone** 353 1 661 2888  
**Fax** 353 1 661 2811  
**Website** <http://www.chambersireland.ie>  
**Email** [info@chambersireland.ie](mailto:info@chambersireland.ie)  
**Category**

*Objectives*

The Chambers of Commerce of Ireland (CCI) is Ireland's largest business organisation with 59 member chambers representing over 12,000 businesses nationwide.

*Activities*

CCI offers support to the local chambers around Ireland; as a social partner, CCI lobbies Government and other policy makers on issues affecting the competitiveness of Ireland and its business community; CCI runs business development projects, sub-contracting from state agencies and the EU to provide low-cost training to its businesses.

***Children's Rights Alliance***


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<b>Address</b>	13 Harcourt Street, Dublin 2, Ireland
<b>Telephone</b>	353-1-405 4823
<b>Fax</b>	353-1-405 4826
<b>Website</b>	<a href="http://www.childrensrights.ie">http://www.childrensrights.ie</a>
<b>email</b>	<a href="mailto:info@cra.iol.ie">info@cra.iol.ie</a>
<b>Category</b>	NGO

*Objectives*

The Children's Rights Alliance provides information on children's rights and services in Ireland. Their objective is to secure the implementation in Ireland of the principles and provisions of the UN Convention on the Rights of the Child.

*Activities*

The Alliance promotes compliance with the National Children's Strategy and assists the Ombudsman for Children. The alliance also undertakes research and various projects aimed at eliminating child poverty in Ireland and promoting the rights of the child.

***Comhlámh***


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<b>Address</b>	10, Upper Camden St. Dublin 2 Ireland
<b>Telephone</b>	353-1-4783490
<b>Fax</b>	353-1-4783738
<b>Website</b>	<a href="http://www.comhlamh.org">http://www.comhlamh.org</a>
<b>Email</b>	<a href="mailto:info@comhlamh.org">info@comhlamh.org</a>
<b>Category</b>	NGO

*Objectives*

Comhlámh is an Irish Association of Development Workers.

*Activities*

Comlamh is an NGO which campaigns for global justice and human rights in Ireland and abroad; provides support for returned development workers; promotes understanding of global issues and cultures through courses, public meetings, the media etc.

### ***Democratic Dialogue***

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**Address** 23 University Street, Belfast BT7 1FY, Northern Ireland  
**Telephone** 44-28-90-220050  
**Fax** 44-28-90-220051  
**Website** <http://www.democraticdialogue.org>  
**Email** [info@democraticdialogue.org](mailto:info@democraticdialogue.org)  
**Category** Research Centre

#### *Objectives*

Democratic Dialogue is a think tank in Northern Ireland concerned with promoting thought on issues considered critical to Northern Ireland.

#### *Activities*

Democratic Dialogue works towards policy formation through research, publications and debates. Areas of interest include programme for government, monitoring devolution, expanding participation, economic development, equality and social inclusion and cultural pluralism. Most of Democratic Dialogue's work focuses on issues in Northern Ireland – to date only the publication below is relevant to the EMN.

#### *Contact*

Margaret Ward Assistant Director

### ***Department of Enterprise, Trade & Employment***

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**Address** Kildare Street, Dublin 2, Ireland  
**Telephone** 353-1-631 2121  
**Fax** 353-1-631 2827  
**Website** <http://www.entemp.ie>  
**email** [webmaster@entemp.ie](mailto:webmaster@entemp.ie)  
**Category** State Body

#### *Objectives*

The Department of Enterprise Trade and Employment is responsible for the implementation of Government policy in five main areas: development of enterprise, employment promotion, trade development, protection of workers and the regulation of businesses.

#### *Activities*

In the context of immigration the Department of Enterprise, Trade and Employment has responsibility for the administration of the Work Permit Programme.

### ***Department of Justice, Equality & Law Reform, Immigration and Asylum Policy Divisions***

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**Address** 13/14 Burgh Quay, Dublin 2, Ireland  
**Telephone** 353-1-6167700  
**Fax** 353-1-66167767  
**Website** <http://www.justice.ie>  
**email** [info@justice.ie](mailto:info@justice.ie)  
**Category** State Body

*Objectives*

The Department of Justice, Equality & Law Reform has responsibility for crime and state security, the criminal justice system, criminal and civil law, equality and immigration and asylum.

*Activities*

The Immigration and Asylum Policy Divisions of the Department has responsibility for the further development of the national immigration policy and the implementation of the Government's asylum strategy. The Office of the Refugee Applications Commissioner, The Refugee Appeals Tribunal and the Reception and Integration Agency fall within the remit of the Department of Justice, Equality and Law Reform.

***Emigrant Advice***


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<b>Address</b>	1a Cathedral Street, Dublin 1
<b>Telephone</b>	01-8732844
<b>Website</b>	<a href="http://www.emigrantadvice.ie">http://www.emigrantadvice.ie</a>
<b>email</b>	anthony@emigrantadvice - (Work Exploitation Section); joe@emigrantadvice.ie - (Outreach)
<b>Category</b>	NGO

*Objectives*

Emigrant Advice is a project of Crosscare – the Dublin Diocesan Social Care Agency. The project provides an information and advocacy service to emigrants and immigrants.

*Activities*

The organisation offers information and presentations and materials to schools, migrant organisations and other interested bodies. As part of the agency's work with immigrants, Emigrant Advice has established a Work Exploitation Section. The Work Exploitation Section is free of charge and offered on an Outreach basis to organisations in the Greater Dublin area. The organisation also works with immigrants to help them establish their own support groups. Emigrant Advice aims to provide quality information and support to enable people involved in an emigration decision or experience, especially the most vulnerable, to make informed choices.

*Contact*

Yvonne Flemming Co-ordinator  
Karen Mulchinock Information and Development Worker

***Equality Authority, The***


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<b>Address</b>	Clonmel St, Dublin 2, Ireland
<b>Telephone</b>	353-1-4173333
<b>Fax</b>	353-1-4173366
<b>Website</b>	<a href="http://www.equality.ie">http://www.equality.ie</a>
<b>email</b>	info@equality.ie
<b>Category</b>	State Associated Agency

*Objectives*

The Equality Authority is an independent body with the objective of promoting and defending the rights established in the equality legislation (Employment Equality Act, 1998 and the Equal Status Act, 2000) and

providing leadership in raising public awareness of equality issues, promoting diversity and mainstreaming equality considerations.

#### *Activities*

The Equality Authority has a strong research and information function. The organisation runs a Public Information Centre and library, publishes newsletters, information leaflets and holds various events. The Equality Authority also has an in-house Legal Service that may, where the case has strategic importance, provide free legal assistance to those making complaints of discrimination.

#### *Contact*

Niall Crowley     Director  
Laurence Bond    Research Manager

### ***European Commission Against Racism and Intolerance (ECRI)***

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**Address**            Avenue de l'Europe  
67075 Strasbourg Cedex  
**Telephone**        33 -(0)-3884120 00  
**Website**            [http://www.coe.int/t/E/human\\_rights/ecri](http://www.coe.int/t/E/human_rights/ecri)  
**email**                [combat.racism@coe.int](mailto:combat.racism@coe.int)  
**Category**            European Body

#### *Objectives*

The European Commission against Racism and Intolerance (ECRI) was set up following a decision of the 1st Summit of Heads of State and Government of the member States of the Council of Europe, in October 1993. ECRI undertakes to combat racism, xenophobia, anti-Semitism and intolerance at the level of greater Europe and from the perspective of the protection of human rights.

#### *Activities*

The ECRI monitors phenomena of racism and racial discrimination by closely examining the situation in each of the member States of the Council of Europe and by drawing up reports containing its analyses and recommendations. The ECRI's programme also focuses on general themes which are particularly important in combating racism, xenophobia, anti-Semitism and intolerance such as general policy recommendations. Finally, the organisation works to spread ECRI's anti-racist message as widely as possible among the general public and to make its work known in all relevant spheres.

### ***European Cultural Foundation***

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**Address**            European Movement, 32 Nassau Street, Dublin 2, Ireland.  
**Website**            <http://www.eurocult.org>  
**Category**            Independent Body

#### *Objectives*

The European Cultural Foundation is an independent foundation with the objective of promoting cultural participation and co-operation in Europe and beyond.

#### *Activities*

The European Cultural Foundation run various programmes and award grants for innovative work in the cultural field.



### ***European Foundation for the Improvement of Living and Working Conditions***

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**Address** Wyattville Road, Loughlinstown, Dublin 18, Ireland  
**Telephone** 353-1-2043100  
**Fax** 353-1-2826456  
**Website** <http://www.eurofound.eu.int>  
**email** [press.officer@eurofound.eu.int](mailto:press.officer@eurofound.eu.int)  
**Category** European Body

#### *Objectives*

The Foundation is a European Agency set up by the European Council to contribute to the planning and design of better living and working conditions in Europe.

#### *Activities*

The Foundation carries out research and development projects, to provide data and analysis for informing and supporting the formulation of EU policy on working and living conditions. The Foundation has a network of experts throughout Europe who conduct research on its behalf including assessing the current national situations, the preparation of case studies and national reports and the conducting of surveys.

#### *Contact*

Willy Buschak Acting Director

### ***Free Legal Advice Centres***

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**Address** 13 Lower Dorset Street, Dublin 1, Ireland  
**Telephone** 353-1-8745690  
**Fax** 353-1-8745320  
**Website** <http://www.flac.ie>  
**email** [info@flac.ie](mailto:info@flac.ie)  
**Category** NGO

#### *Objectives*

Free Legal Advice Centres (FLAC) is a NGO which provides legal services for those living in poverty and campaigns for access to such support for those on low incomes.

#### *Activities*

FLAC operates a telephone help line which gives information on general rights and entitlements as well as free legal advice clinics around the country.

#### *Contact*

Siobhan Phelan

### ***Galway Refugee Support Centre***

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**Address** No.3 the Plaza, Headford Road, Galway, Ireland  
**Telephone** 353-91-779083  
**email** [refugee.galway@ireland.com](mailto:refugee.galway@ireland.com)  
**Category** NGO

*Objectives*

The Galway Refugee Support Centre is an NGO that works to assist refugees and asylum seekers in the Galway area.

*Contact*

Triona Nic Giolla Choille

***Garda National Immigration Bureau***

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**Address** 13/14 Burgh Quay, Dublin 2, Ireland  
**Telephone** 353-1-6669100  
**Fax** 353-1-6669141  
**Website** <http://www.garda.ie/angarda/gnib.html>  
**email** [gpro@iol.ie](mailto:gpro@iol.ie)  
**Category** State Body

*Objectives*

The Garda National Immigration Bureau (GNIB) is responsible for all Garda operations pertaining to immigration matters in the State.

*Activities*

The Garda National Immigration Bureau members apply the law in relation to immigration within the state. Their duties include the registration of immigrants and carrying out deportation orders that are issued by the Minister for Justice, Equality and Law Reform.

***Garda Racial and Intercultural Office***

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**Address** 13/14 Burgh Quay, Dublin 2, Ireland  
**Telephone** 01-666 3150  
**email** [agecard@iol.ie](mailto:agecard@iol.ie)  
**Category** State Body

*Objectives*

The Garda Racial and Intercultural Office operates within the Community Relations Section. The Office has a national remit with responsibility for the development and monitoring of the implementation of organisational policies and strategies, which deal with racial, ethnic, religious and cultural diversity.

*Activities*

The Garda Racial and Intercultural Office has just completed an EU funded programme entitled "Intercultural Ireland, Identifying the Challenges for the Police Service". This was a five-stranded programme which included: a European exchange programme, a conference, the establishment of an ethnic relations forum, the development of a Garda training/education strategy and the production of a Garda training video.

Staff at the office are currently developing a recording mechanism within the Garda Pulse crime recording programme, which will capture data concerning racially motivated incidents. Links have also been established with the Irish Victim Support organisation concerning racial issues and it is intended that victims of racially motivated crime will be referred to this service. An initiative currently being explored by the Racial and Intercultural Office is the development of a network of contact individuals within the many minority ethnic communities in Ireland.

*Contact*

Jonathan O Mahony  
Mary Gormley

***Housing Unit, The***


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<b>Address</b>	The Housing Unit, 57-61 Lansdowne Road, Ballsbridge, Dublin 4
<b>Telephone</b>	353 1 6686233
<b>Fax</b>	353 1 6689135
<b>Website</b>	<a href="http://www.housingunit.ie">http://www.housingunit.ie</a>
<b>email</b>	<a href="mailto:mbruton@ipa.ie">mbruton@ipa.ie</a>
<b>Category</b>	State Agency

*Objectives*

The Unit works with local authorities and other social housing sectors identifying training needs for both staff and tenants; developing a strategic approach to the delivery of housing management services; developing links with the voluntary housing sector.

*Contact*

Michelle Norris Director

***Human Rights Commission***


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<b>Address</b>	4th Floor, Jervis House, Jervis St, Dublin 1, Ireland.
<b>Telephone</b>	+353-1-8589601
<b>Fax</b>	+353-1- 6472515
<b>Website</b>	<a href="http://www.ihrc.ie">www.ihrc.ie</a>
<b>Category</b>	Independent Body

*Objectives*

The Human Rights Commission was formally established in 2001 as part of the undertakings given by the Government in the Belfast Agreement. It parallels a similar commission set up in Northern Ireland in 1999. The Commission is responsible for monitoring human rights in Ireland i.e., those rights, liberties and freedoms guaranteed by the Constitution and by any treaty or convention to which the State is a party.

*Activities*

The Commission keeps Irish human rights law under review and makes recommendations to the Government on such matters; it consults with relevant national and international bodies, undertakes research and educational activities. The Commission also conducts inquiries into human rights abuses and takes cases to court on behalf of individuals and groups. It can also offer its expertise to the courts in such matters. It participates in the Joint Committee of Representatives drawn from the Commissions in both the Irish and Northern Ireland jurisdictions thus providing a forum for human rights issues on the island of Ireland.

*Contact*

Maurice Manning	President
Alpha Connelly	Chief Executive Officer

### *Immigrant Council of Ireland*

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**Address** 2 St. Andrew Street, Dublin 2, Ireland  
**Telephone** 353-1-6740202/6740200  
**Fax** 353-1-6458031  
**Website** <http://www.immigrantcouncil.ie>  
**email** [info@immigrantcouncil.ie](mailto:info@immigrantcouncil.ie)  
**Category** NGO

#### *Objectives*

The Immigrant Council of Ireland is an NGO responding to the needs of immigrants (excluding asylum seekers and refugees) in Ireland.

#### *Activities*

The information role of the Council is an important one. Free legal advice and information is offered to immigrants (excluding asylum seekers and refugees) as well as general information on their rights and entitlements. The Council's work also has a policy dimension directed at the development of 'humane and just' legislation. In addition, the ICI offers training to service providers involved with immigrants in Ireland.

#### *Contact*

Denise Charlton Chief Executive Officer  
Aoife Collins Information Officer

### *Immigration Control Platform*

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**Address** P.O. Box 6469, Dublin 2, Ireland  
**Website** [www.immigrationcontrol.org](http://www.immigrationcontrol.org)  
**email** [icp@iol.ie](mailto:icp@iol.ie)  
**Category** NGO

#### *Objectives*

The aim of the Immigration Control Platform is to address the phenomenon of immigration to Ireland and to lobby Government for a tight immigration policy. Immigration Control Platform is an Irish NGO. It is a voluntary organisation funded by membership subscription and donation.

#### *Activities*

The Immigration Control Platform lobbies the government for a tight immigration policy. The ICP raises awareness of its priority concerns by issuing press statements and maintaining a website. The organisation meets for an Annual General Meeting where an executive committee of the organisation is elected and policy developed.

#### *Contact*

Aine Ni Chonaill Spokesperson

### *Integrating Ireland*

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**Address** c/o Comhlámh, 10 Upper Camden Street, Dublin 2, Ireland  
**Telephone** 353 1 4783490  
**Fax** 353 1 4783738  
**Website** <http://www.integratingireland.ie>  
**email** [info@integratingireland.ie](mailto:info@integratingireland.ie)

**Category** NGO

*Objectives*

Integrating Ireland is an independent network of community and voluntary groups working to promote the human rights, equality and full integration in Irish society of asylum seekers, refugees and immigrants. Established in 2000, the membership-based network currently comprises over 200 organisations from Northern Ireland and the Republic of Ireland. Integrating Ireland is supported by the European Refugee Fund and Comhlámh.

*Activities*

Integrating Ireland promotes the participation of refugees, asylum seekers and immigrants within member organisations, helps organisations to develop common policy positions, promotes public education, holds forums and makes available relevant publications, lobbies the government, provides training, guidance and advice to groups, and provides a platform for networking among members of the network.

*Contact*

Jean-Pierre Eyangá Project Director  
Ailbhe Ni Mhaoilearca Project Assistant

***International Education Board Ireland***

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**Address** International Education Board Ireland  
IPC House, 35-39 Shelbourne Road, Dublin 4, Ireland  
**Telephone** 353-1-6144838/36  
**Fax** 353-1-614 4839  
**Website** <http://www.educationireland.ie>  
**email** [info@educationireland.ie](mailto:info@educationireland.ie)  
**Category** State Associated Agency

*Objectives*

IEBI's objectives include promoting Ireland as a quality destination for students and trainees; supporting the international activities of Irish education institutions; acting as a national point of contact and referral to and from Irish suppliers of education services and the international market place; promoting Irish education expertise as a valuable resource for international institutions, development agencies and governments; liaising with education interests and government around barriers to the development of the international education sector.

*Activities*

Established by the Irish government in 1993, the International Education Board has representation from Universities, Institutes of Technology, Independent Colleges and Language schools as well as from other Government Departments and agencies. IEBI is supported by Enterprise Ireland, Embassies and the Irish Tourist Board. The IEBI responds to enquiries from overseas students, and promotes Irish education overseas via advertising, developing and circulating generic information and by participating at education fairs, seminars and workshops.

*Contact*

John Lynch Chief Executive

### ***International Organisation for Migration, Dublin***

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**Address** 7 Hill Street, Dublin 1, Ireland  
**Telephone** 353-1-8787900  
**Fax** 353-1-8787901  
**Website** <http://www.iom.int>, [www.iomdublin.org](http://www.iomdublin.org)  
**email** [info@iomdublin.org](mailto:info@iomdublin.org)  
**Category** Independent intergovernmental organisation

#### *Objectives*

IOM is an Independent intergovernmental organisation that acts with its partners to assist in the operational management of migration, advance understanding of migration issues, encourage social and economic development through migration and work to protect the well-being of migrants.

#### *Activities*

The IOM in Ireland was established in November 2001 and deals with voluntary assisted return programmes for migrants who wish to return voluntarily home.

#### *Contact*

Diane Grammer Chief of Mission  
Dug Cubie Information Assistant

### ***Irish Business and Employers Confederation***

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**Address** IBEC Head Office, Confederation House, 84/86 Lower Baggot Street, Dublin 2, Ireland  
**Telephone** 353-1- 605 1500  
**Fax** 353-1- 638 1500  
**Website** <http://www.ibec.ie>  
**email** [info@ibec.ie](mailto:info@ibec.ie)  
**Category** Private Organisation

#### *Objectives*

Irish Business and Employers Confederation is an umbrella organisation representing a variety of Irish businesses and employers. It has approximately 7,000 member businesses and organisations.

#### *Activities*

IBEC aims to shape policies and influence decision making. The organisation represents business and employer's interests to Government, state agencies, the trade unions, other national interest groups, and the general public. IBEC develops and reviews policy on relevant topics through consultation with members and undertaking research.

#### *Contact*

Jackie Harrison Director of Social Policy

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### *Irish Centre for Human Rights*

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**Address** National University of Ireland Galway, Galway  
Ireland  
**Telephone** 353-91-750464  
**Fax** 353-91-750575  
**Website** [http://www.nuigalway.ie/human\\_rights](http://www.nuigalway.ie/human_rights)  
**email** [humanrights@nuigalway.ie](mailto:humanrights@nuigalway.ie)  
**Category** Research Centre

#### *Objectives*

Irish Centre for Human Rights focuses on the study and promotion of human rights and humanitarian law. While the Centre is autonomous its academic staff are members of the Faculty of Law at the National University of Ireland, Galway.

#### *Activities*

The Centre offers various Masters programmes and houses a growing number of doctoral researchers. The Centre hosts summer schools, conferences and undertakes research in the area of human rights in Ireland and internationally.

#### *Contact*

Catherine Kenny  
Dr. Joshua Castellino

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### *Irish Congress of Trade Unions*

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**Address** 31/32 Parnell Square, Dublin 1, Ireland  
**Telephone** 353-1-8897777  
**Fax** 353-1-8872012  
**Website** <http://www.ictu.ie>  
**Category** Private Organisation

#### *Objectives*

Congress is the single umbrella organisation for trade unions in Ireland representing a wide range of interests both in the Republic and in Northern Ireland. In 2001 there were 64 unions affiliated to Congress.

#### *Activities*

Congress has a number of functions, for example: representing the interests of workers in respect of economic, employment, taxation and social protection issues, especially with government; providing information, advice and training to unions and their members; assisting with the resolution of disputes between unions and employers and influencing government economic and social policies through direct contacts and via the National Partnership process. The ICTU is involved in campaigning for workers rights including immigrant workers.

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### *Irish Council for Civil Liberties*

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**Address** Dominick Court,  
40-41 Lower Dominick Street,  
Dublin 1, Ireland.  
**Telephone** 353-1-8783136 /8783137

**Fax** 353-1-878 3109  
**Website** <http://www.iccl.ie>  
**email** [iccl@iol.ie](mailto:iccl@iol.ie)  
**Category** NGO

*Objectives*

The Irish Council for Civil Liberties is a non-governmental organisation that works to promote and defend human rights and civil liberties.

*Activities*

ICCL runs campaigns and makes submission on issues such as divorce, abortion, bail, and cabinet confidentiality. The Council aims to champion the rights of various minority groups including refugees and asylum-seekers.

*Contact*

Aisling Reidy Director

***Irish Council for International Students***

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**Address** 41 Morehampton Road, Dublin 4, Ireland  
**Telephone** 353-1-6605233  
**Fax** 353-1-6682320  
**Website** <http://www.icosirl.ie>  
**email** [office@icosirl.ie](mailto:office@icosirl.ie)  
**Category** NGO

*Objectives*

The Irish Council for International Students is an independent, non-governmental and non-profit organisation established in 1970. The Council aims to enhance the quality and benefits of international education in Ireland by working with the main educational institutes, government departments and development agencies both in Ireland and abroad. The Council is made up of representatives from Irish universities, Institutes of Technology and other institutions involved in international education and training at post-secondary level.

*Activities*

The Council offers student advice and support to international students and to their advisers, as well as training and information workshops to staff of member colleges. The Council administers Irish Government (Department of Foreign Affairs) funded Study Fellowship Programmes and works to promote good policy and practice in international education, through research, publications and conferences.

*Contact*

Sheila Power Chief Executive

***Irish Immigrant Support Group (NASC)***

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**Address** St Marie's of the Isle, Sharman Crawford St, Cork City  
**Telephone** +353 21 4317411  
**Fax** +353 21 4317402  
**Website** <http://nasc.ucc.ie/index.html>  
**email** [iisc@eircom.net](mailto:iisc@eircom.net)  
**Category** Non Governmental Organisation



*Objectives*

NASC, which takes its name from the Irish word for “link”, is a Cork-based organisation which provides a centre where immigrants can meet and facilitates contact with voluntary and statutory services.

*Activities*

The Centre provides information on accommodation, welfare entitlements, education and training. It also provides English classes and interpretative services. The Centre also serves as a space where people can meet, exchange information and break down cultural and linguistic barriers.

*Contact*

Brendan Hennessy Co-ordinator

***Irish Penal Reform Trust***


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<b>Address</b>	53 Parnell Square West, Dublin 1 Dublin 1
<b>Telephone</b>	+353-1-874-1400
<b>Fax</b>	+353-1-873-3174
<b>Website</b>	<a href="http://www.iprt.ie">http://www.iprt.ie</a>
<b>email</b>	<a href="mailto:info@iprt.ie">info@iprt.ie</a>
<b>Category</b>	NGO

*Objectives*

The Irish Penal Reform Trust is a non-governmental organisation campaigning for the rights of people in prison and the reform of Irish penal policy.

*Activities*

The Irish Penal Reform Trust campaigns through conferences and events, produces policy papers and conducts research on Irish penal policy. A membership service is offered.

***Irish Refugee Council***


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<b>Address</b>	88 Capel St., Dublin 1, Ireland
<b>Telephone</b>	353-1-8730042
<b>Fax</b>	353-1-8730088
<b>Website</b>	<a href="http://www.irishrefugeecouncil.ie">www.irishrefugeecouncil.ie</a>
<b>email</b>	<a href="mailto:refugee@iol.ie">refugee@iol.ie</a>
<b>Category</b>	NGO

*Objectives*

The Irish Refugee Council is an NGO working for the rights of refugees and asylum seekers in Ireland. The IRC works to ensure Ireland’s asylum and refugee policy and practice, respects international law and human rights; to promote public awareness and understanding of these issues and to serve as a networking forum for NGOs and other interested parties.

*Activities*

The Irish Refugee Council offers legal advice and support to refugees and asylum-seekers including advice on making an application for asylum, interview preparation and family re-unification. The Council adopts legal and social policy positions and papers as well as supporting and promoting relevant research. Such research and information on relevant issues is made available to

the public and the media. In addition the Ennis sub-office is involved in service delivery to the local community of several hundred asylum-seekers and refugees.

*Contact*

Peter O'Mahony Chief Executive

***Islamic Foundation of Ireland***

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**Address** 163 South Circular Road, Dublin 8  
**Telephone** 353-1-4533242  
**Fax** 353-1-4532785  
**Category** Religious Organisation

*Objectives*

Islamic Foundation of Ireland is the mother Islamic organisation in Ireland. It was established in the name of the Dublin Islamic Society in 1959. Later on the name was changed to the Islamic Foundation of Ireland so that it could represent Muslims all over Ireland. The Foundation has a written constitution and a Council, Majlis ash-Shura, which is elected every year by the registered members of the Society.

*Activities*

The number of registered members at present is 1,384 from all over Ireland. The Foundation runs the Dublin Mosque and Islamic Centre. It has established a mosque in Cork and supervised the construction of the Islamic Cultural Centre in Dublin. The Foundation depends financially on renting out houses to be used as Waqf. The Foundation also owns a shop for selling Halal meat and other food and a restaurant for serving daily meals, meals for the Islamic Centres and private functions.

*Contact*

Iman Al-Hussein Director

***Know Racism***

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**Address** The National Anti-Racism Awareness Programme  
Department of Justice, Equality and Law Reform,  
Bishop's Square, Redmond's Hill, Dublin 2, Ireland  
**Telephone** 01-4790272  
**Fax** 01 4790201  
**Website** <http://www.knowracism.ie>  
**email** [info@antiracism.gov.ie](mailto:info@antiracism.gov.ie)  
**Category** State Associated Agency

*Objectives*

Know Racism is a three year, State funded programme which aims to contribute to creating the conditions for building an inclusive and intercultural society in Ireland, where racism is addressed and cultural diversity is valued. A special Steering Group was established to implement the programme, in partnership with the Equality Division of the Department of Justice, Equality and Law Reform.

*Activities*

The group includes representatives of ethnic minority communities, IBEC, ICTU, the community and voluntary sector, the farming sector, national

bodies such as the Equality Authority and the National Consultative Committee on Racism and Interculturalism (NCCRI), relevant government Departments and the Garda Síochána. The group aims to develop actions and initiatives, in the area of media and communications, education, community and local development, political parties, and other areas such as the workplace, policing, sport and the role of religious organisations.

*Contact*

Joe Mc Donagh Chairperson

***Metro Eireann***

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**Address** 213 North Circular Road, Dublin 7, Ireland.  
**Telephone** 3531 869 0670  
**Fax** 3531868 9142  
**Website** www.metroeireann.com  
**email** news@metroeireann.com  
**Category** NGO

*Objectives*

Metro Eireann is a multi cultural newspaper which has a special focus on immigrant/asylum-seeker/refugee issues.

*Activities*

Metro Eireann produces a newspaper, organises debates, conferences and seminars, provides training in multicultural understanding and generally promotes cultural understanding through the arts, entertainment and sport.

***Migrant Rights Centre Ireland***

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**Address** 3 Beresford Place, Dublin 1, Ireland  
**Telephone** 353-1-8881355  
**Fax** 353-1-8881086  
**Website** http://www.mrci.ie  
**email** mic@colomban.com  
**Category** NGO

*Objectives*

The Migrant Rights centre (formerly Migrant Information Centre) is a national rights based NGO working for the rights of migrants (immigrants and emigrants) and their families in Ireland.

*Activities*

The Migrant Rights Centre is involved in the collection and provision of information in relation to the rights of migrants, documenting and researching the experiences of migrants in Ireland and contributing to the formulation of policy. The Centre produces an information newsletter and supports various collective initiatives among migrants and the community and voluntary sector. Support is also offered for a number of legal cases going through the Labour Relations Commission and Employment Appeals Tribunals.

*Contact*

Siobhan O'Donoghue Co-ordinator  
 Bobby Gilmore Chairman

### ***National Consultative Committee on Racism and Interculturalism***

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**Address** Third Floor, Jervis House, Jervis Street, Dublin 1  
**Telephone** 353-1-4785777  
**Fax** 353-1-4785778  
**Website** <http://www.nccri.com>  
**email** [nccri@eircom.net](mailto:nccri@eircom.net)  
**Category** State Associated Agency

#### *Objectives*

The National Consultative Committee on Racism and Interculturalism is a partnership of government departments, agencies and non-government organisations. It was established by the Department of Justice, Equality and Law Reform. The overall aim of the Committee is to develop programmes and actions aimed at developing an integrated approach against racism and to act in a policy advisory role to the government.

#### *Activities*

The NCCRI undertakes strategic actions aimed at mainstreaming the commitment to address racism in policy making and implementation measures by government and into the approach of other relevant institutions. The Committee also supports the development of anti-racism policy and measures at EU level and projects at local and regional level in the development of anti-racism initiatives.

#### *Contact*

Anastasia Crickley Chairperson  
Philip Watt Director

### ***National Economic and Social Council***

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**Address** 16 Parnell Square, Dublin 1, Ireland  
**Telephone** 353-1-8146300  
**Fax** 353-1-8146301  
**Website** <http://www.nesc.ie>  
**email** [info@nesc.ie](mailto:info@nesc.ie)  
**Category** Research Centre

#### *Objectives*

The National Economic and Social Council's main task is to advise the Government on the development of the national economy and the achievement of social justice. In addition to advising the Government, the Council provides a forum for debate and the exchange of views between interested parties. Members include trade unions, business organisations and agricultural organisations, representatives from the community and voluntary sector and a number of public servants and independent members to the Council.

#### *Activities*

The National Economic and Social Council publishes reports and a research series based on work that is considered to be a potential contribution to wider policy debate but on which the Council has not adopted a position.

#### *Contact*

Dr. Rory O'Donnell Director

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### ***National Qualifications Authority of Ireland***

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**Address** 5th Floor, Jervis House, Jervis Street, Dublin 1  
**Telephone** 353 1 887 1500  
**Fax** 353 1 887 1595  
**Website** [info@nqai.ie](mailto:info@nqai.ie)  
**email** <http://www.nqai.ie>  
**Category** State Body

#### *Objectives*

The National Qualifications Authority of Ireland is the Irish centre for the recognition of international awards. The Authority represents Ireland in a European Network of centres known as ENIC/NARIC (European National Information Centre/National Academic Recognition Information Centre) and NRP (National Reference Point) which promote the recognition of international awards throughout Europe.

#### *Activities*

The Authority works towards the establishment and maintenance of a framework of educational qualifications. Building on the framework, the Authority also has a number of other functions in relation to liaising with bodies to facilitate recognition of international awards in Ireland and of Irish awards internationally.

### ***Office of the Refugee Applications Commissioner***

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**Address** 79-83 Lower Mount Street, Dublin 2  
**Telephone** 353-1-6028000  
**Fax** 353-1-6388385  
**Website** <http://www.orac.ie>  
**email** [oracmail@orac.ie](mailto:oracmail@orac.ie)  
**Category** State Body

#### *Objectives*

The Office of the Refugee Applications Commissioner (ORAC) was established in November 2000 to consider at first instance applications for refugee status and to make recommendations to the Minister for Justice, Equality and Law Reform on whether such status should be granted. The ORAC is a statutorily independent body established under the 1996 Refugee Act.

#### *Activities*

The staff of the ORAC conduct an initial interview with the asylum seeker and make investigations into the claim. The ORAC also investigates applications for family reunification. The Refugee Applications Commissioner then makes a positive or negative decision to the Minister for Justice, Equality and Law Reform. A negative decision may be appealed to the Refugee Appeals Tribunal.

#### *Contact*

Bernice O'Neill Refugee Applications Commissioner

### ***Pavee Point***

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**Address** 46 North Great Charles Street, Dublin 1, Ireland  
**Telephone** 353 1 8780255  
**Fax** 353 1 8742626  
**Website** <http://www.paveepoint.ie>  
**email** [pavee@iol.ie](mailto:pavee@iol.ie)  
**Category** NGO

#### *Objectives*

Pavee Point is an NGO working to improve the lives of Travellers in Ireland.

### ***Reception and Integration Agency***

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**Address** Block C, Ardlaun Centre, 112-114 St. Stephens Green West, Dublin 2, Ireland  
**Telephone** 353-1-4183200  
**Fax** 353-1-4183223  
**Website** <http://www.ria.gov.ie>  
**email** [justice@justice.ie](mailto:justice@justice.ie)  
**Category** State Body

#### *Objectives*

Under the aegis of the Department of Justice, Equality and Law Reform, the Reception and Integration Agency has responsibility for planning and co-ordinating the provision of services to asylum seekers, refugees and persons granted leave to remain.

#### *Activities*

The Reception and Integration Agency has responsibility for planning and co-ordinating the provision of services to both asylum seekers and refugees; co-ordinating and implementing integration policy for all refugees and persons granted leave to remain, and responding to crisis situations which result in relatively large numbers of refugees arriving in Ireland within a short period.

### ***Refugee Appeals Tribunal***

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**Address** 6/7 Hanover St. East, Dublin 2, Ireland  
**Telephone** 353-1-4748400  
**Fax** 353-1-4748410  
**Website** <http://www.gov.ie/refappeal>  
**email** [info@refappeal.ie](mailto:info@refappeal.ie)  
**Category** State Body

#### *Objectives*

The Refugee Appeals Tribunal was established in October 2000 and decides appeals of those asylum seekers whose applications for refugee status has not been recommended by the Office of the Refugee Applications Commissioner. The Tribunal is a statutorily independent body and exercises a quasi-judicial function under the 1996 Refugee Act.

#### *Activities*

The Refugee Appeals Tribunal hears appeals of negative decisions made by the Office of the Refugee Applications Commissioner. Oral appeals are held

except in the case of certain applications where the appeal is based on written evidence only. The RAT either confirms the negative decision made by the ORAC or makes a positive decision and informs the Ministerial Decision Unit accordingly where a final declaration is made.

### ***Refugee Documentation Centre***

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**Address** Legal Aid Board, Montague Court, Montague Street,  
Dublin 2  
**Telephone** 353-1-4776268  
**Fax** 353-1-6613113  
**email** Refugee\_Documentation\_Centre@legalaidboard.ie.  
**Category** State Associated Agency

#### *Objectives*

The Refugee Documentation Centre is an independent library service which is provided under the aegis of the Legal Aid Board. The role of the Refugee Documentation Centre is to maintain and develop a collection of documents relating to country of origin information and asylum, immigration, legal and human rights.

#### *Activities*

The Centre serves the needs of the UNHCR, Refugee Legal Services, Refugee Applications Commissioner, Refugee Appeals Tribunal, Ministerial Decision Unit, Repatriation Unit and Department of Justice Equality and Law Reform and private practitioners associated with any of these organisations. The Centre provides a research and query service and results from such research are usually made available in the Documentation Centre.

#### *Contact*

Fiona Morley Librarian  
John Stanley Legal Researcher

### ***Refugee Information Service***

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**Address** 27 Annamoe Terrace, off North Circular Rd, Dublin 7,  
Ireland  
**Telephone** 353-1-8382740  
**Fax** 353-1-8382482  
**Website** <http://www.ris.ie>  
**email** [info@ris.ie](mailto:info@ris.ie)  
**Category** NGO

#### *Objectives*

The Refugee Information Service is an NGO which exists to counter social exclusion through the provision of a specialist information, referral and advocacy service to asylum-seekers and refugees.

#### *Activities*

The RIS provide an information service to asylum-seekers and refugees from their offices in Dublin and Galway. They also run an outreach 'clinic' service in areas of Dublin and Galway where refugees and asylum-seekers live in significant numbers.

### ***Refugee Legal Services***

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**Address** Montague Court, Montague St., Dublin 1, Ireland  
**Telephone** 353-1-4760265  
**Fax** 353-1-4760271  
**Website** <http://www.legalaidboard.ie>  
**email** [RLS@oceanfree.net](mailto:RLS@oceanfree.net)  
**Category** State Associated Agency

#### *Objectives*

The Refugee Legal Service was established by the Legal Aid Board to provide independent legal services to persons applying for asylum in Ireland. The Legal Aid Board is an independent statutory body providing legal services in civil matters.

#### *Activities*

The Refugee Legal Service provides, for a nominal fee, legal representation and services to asylum seekers and those whose case is in the appeal process.

### ***SPIRASI, Spiritan Asylum Services Initiative***

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**Address** 213, North Circular Road, Dublin 7, Ireland  
**Telephone** +353-1-8389664  
**Fax** +353-1-8683504  
**Website** <http://www.spirasi.ie/> and <http://www.ccst.ie>  
**email** [info@spirasi.ie](mailto:info@spirasi.ie)  
**Category** NGO

#### *Objectives*

Spirasi is a Non Governmental organisation working with non-nationals in Ireland.

#### *Activities*

Spirasi offers educational courses to non-nationals including English languages for all levels, computer skills training and a Health Information Service. Spirasi houses a Centre for the Care of Survivors of Torture which offers medical and psychosocial services for survivors. In addition the organisation facilitates immigrant artists and exhibitions of intercultural art. The organisation is also involved in a number of research projects and staff members contribute to publications in the field. Spirasi has on its premises the following organisations: Metro Eireann newspaper, Association of Asylum Seekers and Refugees, Sierra Leone Ireland Partnership and International Doctors in Exile Abroad (IDEA).

#### *Contact*

Michael Begley Director  
Pat McNamara Assistant Director

### ***United Nations High Commissioner for Refugees (UNHCR), Representation in Ireland***

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**Address** Suite 4, Merrion House, 1-3 Lower Fitzwilliam St., Dublin 2  
**Telephone** 353-1-6314510  
**Fax** 353-1-6314616



**Website** <http://www.unhcr.ch>  
**email** [iredu@unhcr.ch](mailto:iredu@unhcr.ch)  
**Category** United Nations Refugee Agency

*Objectives*

The United Nations High Commissioner for Refugees (UNHCR) provides protection and assistance to the world's refugees. UNHCR was created by the United Nations General Assembly and began work in 1951, initially aiding more than one million European refugees following World War II. In 2004 the number of people 'of concern' to UNHCR is more than 20 million worldwide. UNHCR's most important responsibility, known as "international protection", is to ensure respect for the basic human rights of refugees, including their ability to seek asylum and to ensure that no one is returned involuntarily to a country where he or she has reason to fear persecution. UNHCR has maintained a Representation in Ireland since 1998.

*Activities*

In Ireland, the organisation promotes international refugee agreements, monitors government compliance with international law and provides assistance in the area of refugee law training to the main statutory agencies dealing with asylum. UNHCR is also engaged in raising public awareness of the plight of refugees.

*Contact*

Pia Prütz Phiri     Representative  
 Steven O'Brien     Assistant Public Information Officer

***Vincentian Refugee Centre***

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**Address** St. Peter's Church, Phibsboro, Dublin 7, Ireland  
**Telephone** 353 -1-8102580  
**Fax** 353 -1- 8389950  
**Website** <http://www.vincentians.ie>  
**email** [refugeecentrephibsboro@eircom.net](mailto:refugeecentrephibsboro@eircom.net)  
**Category** NGO

*Objectives*

The Vincentian Refugee Centre is run by the Irish Vincentian Order and works to involve the local community with refugees in developing a model of a "Welcoming Community" which recognises and values cultural diversity in a multi-ethnic society.

*Activities*

The Vincentian Refugee Centre offers a wide range of services including: information provision on social welfare and health, an accommodation and housing service, language training, public awareness raising programmes and communication with the media, social events and general integration with the local community, an outreach programme, special services for unaccompanied/separated children, both in terms of integration and education, a women's group, liaison and advocacy work on behalf of Asylum Seekers/Refugees and a platform for Asylum Seekers/Refugees to express their views to the community.

*Contact*

Sr. Briega Keenan     Administrator

# 8. RESEARCHERS WITH COMPETENCE AND EXPERIENCE IN THE FIELD OF MIGRATION AND ASYLUM

Research relevant to the work of the European Migration Network has only recently started to emerge in Ireland. However, a number of researchers have been identified with competence and experience in the field of migration and asylum. The contact details and qualifications of these researchers are supplied below.

The following is a list of individual researchers followed by research organisations.

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## 8.1 Individual Researchers

### *Barrett, Alan*

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Senior Research Officer, The Economic and Social Research Institute, Dublin

**Telephone** 353-1-6671525  
**Fax** 353-1-6686231  
**Email** alan.barrett@esri.ie  
**Address** 4 Burlington Road, Dublin 2, Ireland  
**Website** <http://www.esri.ie>  
**Category** Research Centre

#### *Qualifications and experience*

Dr Alan Barrett's research interests include labour economics and environmental economics. He has undertaken research into migration in Ireland.

### *Begley, Michael*

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Director, Spirasi

**Telephone** 353-1-8389664  
**Fax** 353-1-8686500  
**Email** info@spirasi.ie  
**Address** 213 North Circular Road, Dublin 7, Ireland  
**Website** <http://www.spirasi.ie>

***Bourke, Ann***


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Lecturer, Department of Business Administration, University College Dublin  
**Telephone** 353-1-7164703  
**Fax** 353-1-7164762  
**Email** Anne.Bourke@ucd.ie  
**Address** Room Q224, Department of Business Administration,  
 Quinn School of Business, University College Dublin,  
 Belfield, Dublin 4, Ireland  
**Website** <http://www.ucd.ie/busadmin>

*Qualifications and experience*

Ann Bourke lectures in the Department of Business Administration in University College Dublin. She is co-ordinator of the Masters in Business Studies at the Michael Smurfit Graduate School of Business, Blackrock. Among other research interests Dr. Bourke has published on the internationalisation of higher education.

***Brennan, Aoife***


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Co-Director, Ralaheen Ltd.  
**Telephone** 353-1-6793400  
**Fax** 353-1-6793406  
**Email** [info@ralaheen.ie](mailto:info@ralaheen.ie)  
**Address** Unit 21, Central Hotel Chambers, 7/9 Dame Court,  
 Dublin 2, Ireland

***Byrne, Rosemary***


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Lecturer, Law School, Trinity College Dublin  
**Email** [rbyrne@tcd.ie](mailto:rbyrne@tcd.ie)  
**Address** Law School, Trinity College Dublin, Dublin 2, Ireland.

*Qualifications and experience*

Dr Rosemary Byrne lectures in human rights and international law at Trinity College Dublin. She is the director of the Law School's International Process and Justice Peace Project and a member of the Executive Committee of the Institute for International Integration Studies. Her research interests are in the areas of comparative refugee law and policy and international criminal law.

***Castellino, Joshua***


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Research Director, Irish Centre for Human Rights, NUI Galway  
**Telephone** 353-91-750464  
**Fax** 353-91-750575  
**Email** [humanrights@nuigalway.ie](mailto:humanrights@nuigalway.ie)  
**Address** Irish Centre for Human Rights, National University of  
 Ireland Galway, Galway, Ireland  
**Website** [http://www.nuigalway.ie/human\\_rights](http://www.nuigalway.ie/human_rights)

*Qualifications and experience*

Joshua Castellino (PhD) is a lecturer and researcher at the Irish Centre for Human Rights, NUI Galway. His main areas of interest are minority rights, international law, human rights law, and ethnic conflict.

***Christie, Alistair***

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Lecturer, Department of Applied Social Studies

**Telephone** 353-21-4902228

**Fax** +353-21-4903443

**Email** a.christie@ucc.ie

**Address** William Thompson House, Donovan's Road, Cork,  
Ireland

**Website** <http://www.ucc.ie/acad/appsoc>

*Qualifications and experience*

Professor Alistair Christie lectures at University College Cork in the Department of Applied Social Studies. His research interests include: globalisation, citizenship and social work, social exclusion and histories of social work.

***Conroy, Pauline***

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Co-Director, Ralaheen Ltd.

**Telephone** 353-1-6793400

**Fax** 353-1-6793406

**Email** info@ralaheen.ie

**Address** Unit 21, Central Hotel Chambers, 7/9 Dame Court,  
Dublin 2, Ireland

**Category** Private Market Research Company

*Qualifications and experience*

Pauline Conroy (PhD) is the co-director of Ralaheen Ltd. – a private research and design company. She has conducted research on a broad range of topics including disability and lone parenting. Most relevant to the European Migration Network is the work that has been conducted on the experiences of migrants in Ireland and of migrant women in particular.

***Dibelius, Christine***

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Policy and Development Officer, Clann Housing Association

**Telephone** 353 1 6775010

**Fax** 353 1 672 5040

**Address** Floor 3, 18 Dame Street, Dublin 2, Ireland

**Website** [www.clann.ie](http://www.clann.ie)

*Qualifications and experience*

Christine Dibelius (MPhil) is policy and development officer for Clann Housing Association – an NGO that works to provide quality housing for refugees.

***Egan, Suzanne***

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Director of the Diploma in Human Rights Law, Faculty of Law, University College Dublin

**Telephone** 353-1-716 9739  
**Fax** 353-1-269 2655  
**Email** Suzanne.Egan@ucd.ie  
**Address** University College Dublin, Belfield, Dublin 4, Ireland  
**Website** <http://www.ucd.ie/law>  
**Category** Educational Institute

*Qualifications and experience*

Suzanne Egan is a barrister with a Master of Laws. She lectures in International and European Human Rights Law at University College Dublin and sits on the Irish Human Rights Commission. She is a founding member of the Refugee Protection Policy Group in Ireland. She is also a former member of the Executive Committee of the Irish Refugee Council.

***Fanning, Bryan***

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Lecturer in Social Policy and Social Work, Social Science Research Centre, University College Dublin

**Telephone** 353-1-7167001  
**Email** bryan.fanning@ucd.ie  
**Address** Social Science Research Centre, Room 524, 5th Floor, Library Building, University College Dublin, Belfield, Dublin, Ireland  
**Website** <http://www.ucd.ie/ssrc>  
**Category** Research Centre

*Qualifications and experience*

Bryan Fanning (BA, DMS, PhD) lectures in Social Policy and Social Work. His research interests include race and social policy in Ireland; social theory and social policy; comparative social policy identity; values and social policy in Ireland. He has published a number of studies in the area of asylum.

***Faughnan, Pauline***

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Director of Applied Social Science Research Centre, University College Dublin

**Telephone** 353-1-7167001  
**Email** [ssrc.dept@ucd.ie](mailto:ssrc.dept@ucd.ie)  
**Address** Room 524, 5th Floor, Library Building, University College Dublin, Dublin, Ireland  
**Website** <http://www.ucd.ie/ssrc>  
**Category** Research Centre

*Qualifications and experience*

Pauline Faughnan (PhD) is the Director of Applied Social Science Research at University College Dublin. Her research interests include: evaluation and action research; social policy research with particular emphasis on the voluntary sector; disability; ageing; environment; community and local development; poverty and social exclusion. Pauline Faughnan is also a member of the Institute for the Study of Social Change, another research centre within University College Dublin.

***Feldman, Alice***

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Lecturer in Sociology, Social Science Research Centre, University College Dublin

**Telephone** 353-1-7167001  
**Email** alice.feldman@ucd.ie  
**Address** Room 524, 5th Floor, Library Building, University College Dublin, Ireland  
**Website** <http://www.ucd.ie/ssrc>  
**Category** Research Centre

***Qualifications and experience***

Alice Feldman (MA, PhD) is a lecturer in Sociology at University College Dublin. Her research interests include: racism, multiculturalism and community development, the role of participatory and action research in the process of social change and indigenous peoples. Dr Feldman has been involved in the consultation process for the development of the National Action Plan Against Racism and is a representative of Integrating Ireland, a national network of refugee, asylum seeker and immigrant support groups. Alice Feldman is also a member of the Institute for the Study of Social Change another research centre within University College Dublin.

***Fitz Gerald, John***

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Research Professor at The Economic and Social Research Institute, Dublin

**Telephone** 353-1-6671525  
**Fax** 353-1-6686231  
**Email** john.fitzgerald@esri.ie  
**Address** 4 Burlington Road, Dublin 4, Ireland  
**Website** <http://www.esri.ie>  
**Category** Research Centre

***Qualifications and experience***

John Fitz Gerald is Research Professor at the ESRI. He researches in the field of macroeconomics and resource economics and has been involved in studies on migration and the Irish Labour Market.

***Gray, Breda***

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Senior Lecturer, Department of Sociology, University of Limerick

**Telephone** 061-234207  
**Fax** 061202569  
**Email** breda.gray@ul.ie  
**Address** University of Limerick, Castletroy, Limerick, Ireland  
**Website** <http://www.ul.ie/womensstudies>  
<http://www.ul.ie/sociology>

***Qualifications and experience***

Breda Gray PhD lectures at the University of Limerick. She led the Programme of Research for Third Level Institutions (PRTLTI) project: Staying at home in an emigrant society; was the lead investigator on North/South (Higher Education Authority) HEA project on return migration; and was consultant to a Women and Irish Society project UCC. She was also the lead investigator on Ireland Funds Project on life narratives of new immigrants.

***Hughes, Gerry***

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Research Professor at The Economic and Social Research Institute and Director of European Migration Network, Irish Contact Point

**Telephone** 353-1-6671525  
**Fax** 353-1-6686231  
**Email** gerry.hughes@esri.ie  
**Address** 4 Burlington Road, Dublin 4, Ireland  
**Website** <http://www.esri.ie>

*Qualifications and experience*

As well as serving as Research Professor at ESRI, Gerry Hughes (PhD) is a Visiting Professor at the Department of Economics, University College, Cork. His areas of interest are Labour Economics, Social Policy and Public Finance. His publications on Labour Economics include papers on unemployment, migration, occupational forecasting, labour market segmentation and earnings, skill shortages and vacancies.

***Ingram, Attracta***

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Associate Professor, Politics Department, University College Dublin

**Telephone** 353-1-716 8393  
**Email** [Attracta.Ingram@ucd.ie](mailto:Attracta.Ingram@ucd.ie)  
**Address** University College Dublin, Belfield, Dublin 4, Ireland

*Qualifications and experience*

Attracta Ingram is Associate Professor of Politics at UCD. Research interests include liberal theories of rights, multiculturalism and cosmopolitan ideas, state and nation.

***Kelleher, Patricia and Carmel***

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Kelleher Associates

**Telephone** 353-27-73344  
**Email** [pkell@iol.ie](mailto:pkell@iol.ie)  
**Address** Allihies, Beara, Co. Cork, Ireland  
**Category** Private Research Consultants

*Qualifications and experience*

Patricia Kelleher Ph.D is a Research Consultant with Kelleher Associates. Kelleher Associates are currently working on research with the Immigrant Council of Ireland.

***Kelly, Nuala***

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Migrant Rights Centre

**Telephone** 353-1-8881355  
**Fax** 353-1- 8881086  
**Email** [mic@columban.com](mailto:mic@columban.com)  
**Address** 3, Beresford Place, Dublin 1, Ireland  
**Website** <http://www.columban.com/mic>

***Kenny, Catherine***

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**Telephone** 353-91-750464  
**Fax** 353-91-750575  
**Email** [humanrights@nuigalway.ie](mailto:humanrights@nuigalway.ie)  
**Address** Irish Centre for Human Rights, National University of  
Ireland Galway, Galway, Ireland  
**Website** [http://www.nuigalway.ie/human\\_rights](http://www.nuigalway.ie/human_rights)

*Qualifications and experience*

Catherine Kenny is researcher and PhD Candidate at the Irish Centre for Human Rights, NUI, Galway, a centre that focuses on the study and promotion of human rights and humanitarian law. She was a member of the Executive Committee of ICCL and Convenor of ICCL's Women's committee.

***Lentin, Ronit***

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Course Co-ordinator of MPhil in Ethnic and Racial Studies and part-time lecturer at TCD  
**Telephone** 353-1-6082766  
**Fax** 353-1-6771300  
**Email** [rlentin@tcd.ie](mailto:rlentin@tcd.ie)  
**Address** Department of Sociology, Trinity College Dublin, Foster  
Place, Dublin 2, Ireland  
**Website** <http://www2.tcd.ie/Sociology>  
**Category** Educational Institute

*Qualifications and experience*

Ronit Lentin (PhD) is course co-ordinator of the MPhil in Ethnic and Racial Studies and lecturer in Sociology at Trinity College Dublin. Her research interests include gender and ethnicity, racism and anti-Semitism in Irish society, gender and racism and feminist research methodologies.

***Loyal, Stephen***

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Lecturer in Sociology, Social Science Research Centre, University College Dublin  
**Telephone** 353-1-7167001  
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**Category** Research Centre

*Qualifications and experience*

Stephen Loyal (PhD) lectures in Sociology at University College Dublin. His research interests include theoretical sociology, race, nation and identity, historical sociology.



***Mac Éinrí, Piaras***

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Lecturer, Department of Geography

**Telephone** 353-21-4902889

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**Email** migration@ucc.ie

**Address** Migration Studies, Department of Geography, University  
College Cork, Western Road, Cork, Ireland

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**Category** Research Centre

***Qualifications and experience***

Piaras Mac Éinrí researches historical and contemporary migration to and from Ireland.

***Frances McGinnity***

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Research Officer, The Economic and Social Research Institute, Dublin

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**Category** Research Centre

***Qualifications and experience***

Dr McGinnity's research interests are in labour market inequality, often from a comparative and longitudinal perspective. She has also undertaken some research in the area of migration and racism.

***Mulcahy, Aogán***

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Lecturer, Department of Sociology, University College Dublin

**Email** aogan.mulcahy@ucd.ie

**Address** Room: F306X, Department of Sociology, University  
College, Dublin, Belfield, Dublin 4, Ireland.

***Qualifications and experience***

Dr Aogán Mulcahy lectures in the Department of Sociology, University College Dublin. His main research interests are in the areas of criminology, policing and Northern Irish society and he has been involved in some work on racism.

***Mullally, Siobhán***

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**Website** <http://www.ucc.ie/law>

**Category** Educational Institute

***Qualifications and experience***

Siobhán Mullally (B.C.L., LL.M.) is a lecturer in the Faculty of Law, University

College Cork. Her research interests include human rights, gender and law, refugee law, equality law. She has undertaken a number of commissioned research projects on behalf of the Department of Justice, Equality and Law Reform, the European Commission, the Irish Refugee Council and the British Council.

### ***Mutwarasibo, F.***

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Immigrant Council of Ireland  
**Telephone** 353-1-8656525  
**Fax** 353-1-874 9695  
**Email** info@immigrantcouncil.ie  
**Address** 42 Upper Dorset Street, Dublin 1, Ireland  
**Website** <http://www.immigrantcouncil.ie>

#### *Relevant Publications*

Mutwarasibo, F. (2000), *Africans in Ireland: Developing Communities*, Dublin: African Cultural Project.

### ***O'Connell, P.J.***

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Research Professor, The Economic and Social Research Institute  
**Telephone** 353-1-6671525  
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#### *Qualifications and experience*

Dr Philip J. O'Connell is a Research Professor at the ESRI, Dublin. Much of his work focuses on the impact of education, training and the labour market.

### ***Ruhs, Martin***

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Senior Labour Market Economist, Centre on Migration, Policy and Society (COMPAS)  
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#### *Qualifications and experience*

Martin Ruhs (PhD) is a Senior Labour Market Economist, Centre on Migration, Policy and Society (COMPAS). His research interests include the economic consequences of international labour migration; policies for managing labour immigration, especially temporary foreign worker programmes, legalisation programmes and potential policy tools for international governance; ethics of labour immigration policy; migration and development.

***Sexton, J.J.***

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Former ESRI Research Professor and former Director of Irish National Contact Point of the European Migration Network

**Email** jjsexton@indigo.ie

**Address** 12 Sorrento Road, Dalkey, Co. Dublin, Ireland

*Qualifications and experience*

Jerry Sexton undertakes consultancy work in the areas of migration and the labour market.

***Sinha, Shalina***

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Lecturer and researcher, Women's Education, Research and Resource Centre

**Telephone** 353-1-7167777

**Address** UCD, Belfield, Dublin 4, Ireland

**Website** <http://www.ucd.ie/werrc>

*Qualifications and experience*

Shalina Sinha researches and lectures in the areas of gender and racism in Ireland with the Women's Education Research and Resource Centre, University College Dublin. Her research interests include gender and racism in Ireland; institutional racism; examining privilege; issues of identity; global feminism and strategies for liberation.

***Veale, Angela***

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Lecturer, Department of Applied Psychology, University College, Cork

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**Fax** 353-21-4270439

**Email** A.Veale@ucc.ie

**Address** University College Cork, Enterprise Centre, North Mall, Cork, Ireland

*Qualifications and experience*

Ms Veale researches in the following areas: critical developmental psychology; participatory action research on children in adversity, children in war and post-conflict contexts, refugee children in Ireland, and psychosocial programming.

***Walley, Paddy***

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Paddy Walley Consultants

**Telephone** 353-1-2858266

**Address** 82 Churchview Rd., Killiney, Co. Dublin, Ireland

*Qualifications and experience*

Paddy Walley is a private consultant who is contracted to facilitate workshops, compile reports etc.

***Ward, Tanya***

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Senior Research and Policy Officer

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***Qualifications and experience***

Tanya Ward is a Senior Research and Policy Officer with the Irish Council for Civil Liberties. She has published on asylum, refugee and migration issues, paying particular attention to education. She has also been involved in drafting a document with the Curriculum Development Unit for the Department of Education and Science, for the National Action Plan Against Racism.

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**8.2  
Research  
Organisations*****Economic and Social Research Institute, The***

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***Objectives***

The ESRI is an independent research institute that produces research relevant to Ireland's social and economic development, with the aim of informing policy formation and societal understanding.

***Activities***

The ESRI has conducted research on a wide range of social and economic subjects. Current research interests include demographics, health, housing, macroeconomics, social capital, regional studies and labour market/migration. The latter has resulted in several relevant publications relevant to the European Migration Network.

***Contact***

Prof. Gerry Hughes Research Professor and Director of European Migration Network Irish Contact Point.

Emma Quinn Research Analyst of European Migration Network Irish Contact Point.

***Institute for International Integration Studies***

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**Address** The Sutherland Centre  
Level 6, Arts Building, Trinity College Dublin, College  
Green, Dublin 2, Ireland

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**Fax** 353-1-6083939

**Website** <http://www.tcd.ie/iis>

**email** [weadickg@tcd.ie](mailto:weadickg@tcd.ie)

*Objectives*

The IIS works to promote research on global and regional integration, the implications of international integration for economic and social development and the resultant challenges posed for decision makers in the public and private sectors.

*Activities*

The IIS brings together researchers from a large number of academic departments including business, economics, history, law, political science and sociology. The Institute members conduct research, hold conferences and seminars and host visiting academics.

*Contact*

Gail Weadick     Executive Officer  
Adrienne Harten     IIS Manager

***Institute for the Study of Social Change***


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**Address**             UCD, Belfield, Dublin 4, Ireland  
**Telephone**         353-1- 716 4610  
**Website**             <http://www.ucd.ie/issc>  
**email**                 [susan.butler@ucd.ie](mailto:susan.butler@ucd.ie)

*Objectives*

The Institute for the Study of Social Change (ISSC) was established at UCD with funding under the Higher Education Authority Programme for Research in Third Level Institutions, part of the National Development Plan 2000-2006. ISSC conducts research on a variety of themes and offers a PhD programme in the social sciences. The Institute also houses the Irish Social Science Data Archive.

*Activities*

The Institute conducts research on a variety of themes (including monitoring of social, political and economic change in Ireland and globally, poverty and inequality, European integration). Particularly relevant to the EMN is the research programme entitled 'Identity Diversity and Citizenship'. This programme involves research on constitutional and institutional reform, new patterns of migration (specifically of substantial immigration into the Republic of Ireland) and self-perceptions of Irish people, including their national identity. The Institute is also home to the Irish Social Science Data Archive. The Archive holds material such as census and survey data, election results and opinion polls and makes them available to a variety of users in Ireland and beyond. The Archive is managed jointly by UCD and the Economic and Social Research Institute (ESRI) and has the support of the Central Statistics Office (CSO).

*Contact*

Colm Harmon     Director  
Susan Butler     Institute Manager

***Irish Centre for European Law, Trinity College Dublin***

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**Address** House 39, The Law School, Trinity College, Dublin 2, Ireland  
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*Objectives*

The Irish Centre for European Law provides a forum for the examination and discussion of issues relating to European Union and European Human Rights law. The Centre encourages research into these fields and disseminates the findings as well as other relevant information.

*Activities*

The Irish Centre for European Law organises conferences, seminars and briefings on all areas where European Union and Human Rights law has an impact in Ireland. Occasionally these conferences are relevant to the European Migration Network. The Centre produces conference proceedings and publications on recent developments in European Community and Human Rights law.

***Irish Centre for Migration Studies***

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**Address** Migration Studies, Department of Geography, National University of Ireland, Cork, Western Road, Cork, Ireland  
**Telephone** +353-21-902889  
**Fax** +353-21-903326  
**email** [migration@ucc.ie](mailto:migration@ucc.ie)  
**Website** <http://migration.ucc.ie>

*Activities*

The Irish Centre for Migration Studies promotes the study of historical and contemporary migration, to and from Ireland, within a comparative international framework, using new information and communication technologies. The staff of the centre have worked extensively on the Irish diaspora.

***Migration & Citizenship Research Initiative***

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**Address** Geary Institute, Arts Annexe, University College Dublin, Belfield, Dublin 4, Ireland  
**Telephone** +353 1 7164615 /4625  
**Fax** +353 1 7161108  
**Email** [geary@ucd.ie](mailto:geary@ucd.ie)  
**Website** <http://www.ucd.ie/geary>

*Objectives*

The Migration & Citizenship Research Initiative grew out of the Identity, Diversity and Citizenship Research Programme in the Geary Institute at UCD. It is an emerging multi-disciplinary, inter-university and cross-sector research infrastructure and network that reflects and strengthens the activities and

outcomes associated with rigorous, critically engaged research at regional, national and international levels.

#### *Activities*

The research interests of the staff, postgraduate and cross-sector partners and affiliates cover four thematic research areas in relation to migration:

- Identity, Citizenship & Civil Society: Community Development & Integration, Political Participation & Cultural Capital.
- Immigration, Social Policy & Institutional Change: Interculturalism and Inequalities in Health, Education, Employment & Mobility, Housing & Residency.
- Regional & Global Trends & Transformations: EU Policy & European Integration; Culture, Diaspora & Development.
- Evidence-Based Policy & Practice.

In addition, the MCRI is the co-editor of the Irish Register of Migration & Social Transformation Research.

#### *Contact*

Dr Alice Feldman Co-ordinator

Dr Mary Gilmartin Co-ordinator

### ***Policy Institute, The***

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**Address** Trinity College, 1 College Green, Dublin 2, Ireland  
**Telephone** 353-1-6083486  
**Fax** 353-1-6770546  
**Website** <http://www.policyinstitute.tcd.ie>  
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#### *Objectives*

The Policy Institute is a multi-disciplinary research centre located in Trinity College Dublin. The Centre pursues an independent research agenda and involves academics and policy makers from within the university, Ireland and beyond.

#### *Activities*

The Policy Institute pursues three main areas of research: better government and public sector reform; social citizenship and social cohesion; and economic growth, structural change and spatial development. The latter two categories are of relevance to the work of the European Migration Network. The Policy Institute is currently compiling an online directory of staff which will enable the user to identify teaching staff and researchers linked to the Institute who work on, or have an interest in, particular policy-related subject areas.

#### *Contact*

Sinéad Riordan Research Co-ordinator

### ***Ralaheen Ltd.***

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**Address** Unit 21, Central Hotel Chambers, 7/9 Dame Court, Dublin 2,  
**Telephone** 353-1-6793400  
**Fax** 353-1-6793406  
**email** [info@ralaheen.ie](mailto:info@ralaheen.ie)

*Objectives*

Ralaheen Ltd. is a private research and design company.

*Activities*

Ralaheen has conducted research on a broad range of topics including disability and lone parents. Most relevant to the European Migration Network is the work that has been conducted on the experiences of migrants in Ireland and of migrant women and children in particular.

*Contact*

Pauline Conroy      Co-Director  
Ailish McShane      Co-Director

***School of Law, Trinity College Dublin***

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**Address**            Trinity College Dublin, College Green, Dublin 2, Ireland  
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*Contact*

Hilary Delany      Head of the Law School

***Social Science Research Centre, University College Dublin***

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Dublin, Belfield, Dublin 4, Ireland  
**Telephone**        353-1-7167001  
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*Objectives*

The Social Science Research Centre was established to promote and develop research by the staff of the Departments of Sociology, Social Policy and Social Work, UCD and to encourage co-operation with others in fostering a research approach to Irish society, its development possibilities and social policy issues.

*Activities*

The Social Science Research Centre is engaged in research in a number of areas including social exclusion, Irish social policy, interculturalism and new minority communities.

*Contact*

Pauline Faughnan      Director



# 9. LIST OF RECENT AND CURRENT RESEARCH PUBLICATIONS

As previously noted the emergence of research relevant to the work of the EMN is relatively recent in Ireland. Traditionally migration research has focused on emigration and the resulting Irish ‘Diaspora’ abroad. As the balance has shifted towards immigration into Ireland researchers have begun to respond. The following is a list of relevant recent research.

1. Almirall, L. and Lawton, N. (2001), *Asylum in Ireland. A Report on the Fairness and Sustainability of Asylum Determinations at First Instance*, Dublin: Irish Refugee Council.
2. Amnesty International (Irish Section) (2003), *Mental Illness, the Neglected Quarter – Marginalised Groups*, Dublin: Amnesty International.
3. Auriol, L. and Sexton, J. (2002), “Human resources in science and technology: Measurement issues and international mobility”, in *International Mobility of the Highly Skilled*, Paris: OECD.
4. Bacik, Ivana, William Binchy, Neville Cox, Cathryn Costello, Oran Doyle (2004), “The Citizenship Referendum: Implications for the Constitution and Human Rights,” Dublin: School of Law, Trinity College Dublin.
5. Barrett, A. and F. Trace (1998 Summer), “Who is coming back? The educational profile of returning migrants in the 1990s”, Dublin: *Irish Banking Review*.
6. Barrett, A. (2002), “Return migration of highly skilled Irish into Ireland and their impact on GNP and earnings inequality”. *International Mobility of the Highly Skilled*, Paris: OECD.
7. Barrett, A. and P.J. O’Connell (2001), “Is there a wage premium for returning migrants?” *The Economic and Social Review*, Vol. 32, No. 1, Dublin: Economic and Social Studies.
8. Barrett, Alan, John Fitz Gerald, Brian Nolan (2000), *Earnings, Inequality, Returns to Education and Immigration into Ireland*, Bonn: IZA.
9. Barrett, A. (2005), “Irish migration: characteristics, causes and consequences” in Klaus F. Zimmerman (ed.), *European Migration: What do we know?* New York: Oxford.
10. Barrett, A., A. Bergin and D. Duffy (2005), “The Labour Market Characteristics and Labour Market Impacts of Immigrants in Ireland”, IZA Discussion Paper No. 1553.
11. Begley, M., C. Garavan, M. Condon, I. Kelly, K. Holland, A. Staines (1999), “Asylum in Ireland: A public health perspective”, Dublin: Department of Public Health Medicine and Epidemiology, University College Dublin in association with Congregation of the Holy Ghost, Dublin.

12. Bourke, A. (2000), "Recent developments in the market for international students" in Rachel Martin (ed.), *Occasional Papers No. 1 and 2*, Dublin: Irish Council for International Students.
13. Fanning, Bryan (2003), *Racism and Social Change in the Republic of Ireland*, Manchester: Manchester University Press.
14. Burke, Eimear (2003), "Customs Clearance": A project to achieve better cultural understanding between immigrant and native populations in Ireland, Dublin: European Cultural Foundation.
15. Byrne, R., G. Noll, J. Vedsted-Hansen (2003), *Understanding Refugee Law in an Enlarged European Union*. IIS Discussion Paper No. 11, Dublin: The Institute for International Integration Studies (IIS), TCD.
16. Chambers of Commerce Ireland (2001), *Labour Force 2001: Economic Immigration*, Dublin: Chambers of Commerce Ireland.
17. Chambers of Commerce Ireland (2005), *Labour Force 2004*, Dublin: Chambers of Commerce Ireland.
18. Christie, A. (2002), "Asylum seekers and refugees in Ireland: questions of racism and social work", *Social Work in Europe*, Vol. 9, No. 1, pp.10-17.
19. Christie, A. (2002), "The integration of children seeking asylum in Ireland: what role for the social work profession?", <http://www.ispa.ie/ispanovac.doc>: Irish Social Policy Association.
20. Christie, A. (2003), "Unsettling the 'social' in social work: responses to asylum seeking children in Ireland", *Child and Family Social Work*, Vol. 8, No. 3, pp. 223-231, Blackwell Publishing.
21. Christie, A. (2003), "Responses of the social work profession to unaccompanied children seeking asylum in the Republic of Ireland", *European Journal of Social Work*, Vol. 5, No. 2, pp. 187-198.
22. Clann Housing Association (1999), *From Bosnia to Ireland's Private Rented Sector. A Study of Bosnian Housing Needs in Ireland*, Dublin: Clann Housing Association.
23. Comhlahm (2001), *Refugee Lives: the failure of direct provision as a social response to the needs of asylum seekers in Ireland*, Dublin: Comhlahm.
24. Conroy, Pauline, Aoife Brennan (2002), *Migrant Workers and their Experiences*, Dublin: Equality Authority.
25. Conroy, P. (2003), "Migrant Women – Ireland in the international division of care" in R. Lentin and E. Luibhéid (ed.), *Selection of papers from a conference 'Migrant Women Transforming Ireland'*, Dublin: Trinity College Dublin.
26. Conroy, P. (2004), *Trafficking in Unaccompanied Minors in Ireland*, Dublin: International Organisation for Migration.
27. Cotter, Gertrude (2004), *A Guide to Published Research on Refugees, Asylum Seekers and Immigrants in Ireland*, Dublin: Integrating Ireland.
28. Crickley, A. P. Watt, J. Niessen, S. Spencer and P. Mac Éinrí, (2002), *Migration Policy in Ireland, Reform and Harmonisation*, Dublin: National Consultative Committee on Racism and Interculturalism.
29. Cubie, D., F. Ryan (2004), *Immigration, Refugee and Citizenship Law in Ireland: Cases and Materials*, Dublin: Roundhall.
30. Department of Justice, Equality and Law Reform (2005), *Immigration and Residence in Ireland: Outline Policy Proposals for an Immigration and Residence Bill*, Dublin.
31. De Tona, Carla (2003), "I remember when years ago in Italy...": Italian women in Dublin telling the diaspora. In 'Migrant Women

- Transforming Ireland', 20-21<sup>st</sup> March 2003 Dublin: The British Council.
32. Dibelius C. (2001), *Lone but not Alone: A Case Study of Social Networks of African Refugee Woman in Ireland*, Dublin: Trinity College Dublin.
  33. Diversity at Work Network, Chambers of Commerce Ireland, Institute of Technology, Blanchardstown, National Consultative Committee on Racism and Interculturalism (2005), *Managing Diversity in the Workplace Handbook: Focusing on the employment of migrant workers*, Dublin.
  34. Egan, Suzanne, Kevin Costello (1999), *Refugee Law: A Comparative Study*, Dublin: Department of Justice, Equality and Law Reform.
  35. WRC Social and Economic Consultants (2003), *Accommodating Diversity in Labour Market Programmes*, Dublin: Equality Authority.
  36. Equality Authority (2003), *Building an Intercultural Society*, Dublin: Equality Authority.
  37. European Commission (2002), *Green Paper on a Community Return Policy of Illegal Residents*. Brussels: European Commission.
  38. Fanning, Bryan, Stephen Loyal (2000), *Asylum Seekers and the Right to Work in Ireland*, Dublin: Irish Refugee Council.
  39. Fanning, Bryan (2001), "Reluctant hosts: Refugee Policy in 20th Century Ireland", *Administration*, Vol. 48, No. 4, pp. 83-99, Dublin: Institute of Public Administration.
  40. Fanning, Bryan (2001), "On no man's land: asylum seekers and the limits of social citizenship", Web article, Irish Social Policy Association Annual Conference, Dublin.
  41. Fanning, Bryan, Angela Veale, Dawn O'Connor (2001), "Beyond the Pale: Asylum-Seeking Children and Social Exclusion in Ireland", Dublin: Irish Refugee Council.
  42. Fanning, Bryan (2002), "The Political Currency of Irish Racism: 1997-2002", *Studies*, Vol. 91, pp. 319-328, Dublin.
  43. Fanning, B. (2002), *Racism and Social Change in the Republic of Ireland*, Manchester: Manchester University Press.
  44. Fanning, Bryan, Fidèle Mutwarasibo and Neltah Chadamoyo (2003), *Positive Politics: participation of immigrants and ethnic minorities in the electoral process*, Dublin: Africa Solidarity Centre.
  45. Faughnan, Pauline (1999), *Refugees and Asylum Seekers in Ireland: Social Policy Implications*, Dublin: Social Science Research Centre, University College Dublin.
  46. Faughnan, Pauline, Máiríde Woods (2000), *Lives on Hold: seeking asylum in Ireland*, Dublin: Social Science Research Centre, University College Dublin.
  47. Faughnan, Pauline, Niamh Humphries, Sadhbh Whelan, (2002), *Patching up the System: the Community Welfare System and Asylum Seekers*, Dublin: Social Science Research Centre, University College Dublin.
  48. Faughnan, Pauline, Áine O'Donovan (2002), *A Changing Voluntary Sector: Working with New Minority Communities in Ireland*, Dublin: Social Science Research Centre, University College Dublin.
  49. Feldman, Alice, Carmen Frese, Tarig Yousif (2002), *Research, development and critical interculturalism: A study on the participation of refugees and asylum seekers in research and development-based initiatives*, Dublin: Social Science Research Centre, University College Dublin.
  50. Fitz Gerald, J., I. Kearney (1999), "Migration and the Irish Labour Market". ESRI Working paper 113, Dublin: ESRI.

51. Focus Ireland, Clann Housing Association (2002), *Housing and Race in Ireland: A joint Submission under the National Plan Against Racism to the Department of Justice, Equality and Law Reform*, Dublin: Focus Ireland, Clann Housing Association.
52. Fraser, U., Harvey, C. (ed.) (2004), *Sanctuary in Ireland: Perspectives on Asylum Law and Policy*, Dublin: Institute of Public Administration.
53. Free Legal Advice Centres (2003), *Discrete Discrimination*, Dublin: Free Legal Advice Centres.
54. Galway Refugee Support Centre (2002), *Asylum Seekers in Galway and the Right to Work*, Galway: Galway Refugee Support Centre.
55. Good, John (2004), "A Matter of Life and Death for Some Refugees and Asylum Seekers", Available from: <http://www.irishmedicalnews.ie>. [Accessed 7<sup>th</sup> April 2005].
56. Hall, Bethany R. (2004), *Meeting the Needs of Asylum Seeking and Refugee One-Parent Families – One Family and the Effects of a Changing Clientele*, Dublin: One Family.
57. Harvey, Colin, Margaret Ward (ed.) (2000), *No welcome here? Asylum seekers and refugees in Ireland and Britain*, Belfast: Democratic Dialogue.
58. Housing Unit, The (2003), *Good Practice in Housing Management. Guidelines for Local Authorities: Housing Refugees*, Dublin: The Housing Unit in association with The Department of the Environment and Local Government and The City and County Managers Association.
59. Hughes, G., E. Quinn (2004), "The Impact of Immigration on Irish Society", Dublin: European Migration Network. Available from: <http://www.esri.ie>.
60. Hyland, Niamh (1999), *The Free Movement of Workers within the European Union*, Dublin: Irish Centre for European Law, Dublin.
61. IBEC Survey Unit (2000), *Employment of Non-EU Nationals/Refugees in Ireland: Employers' and Refugees' experience*, Dublin: Irish Businesses and Employers Confederation.
62. Immigrant Council of Ireland (2003), "Immigration, Ireland's Future". Conference Proceedings, Dublin: Immigrants Council of Ireland.
63. Immigrant Council of Ireland (2003), *Handbook on Immigrants' Rights and Entitlements in Ireland*, Dublin: Immigrant Council of Ireland.
64. Ingoldsby, Brian (2002), "Regular migration to Ireland", Dublin: (Law Society Seminar).
65. Ingoldsby, Brian (2002), "Leave to remain other than through the regular migration process", Dublin: (Law Society Seminar).
66. Ingram, Attracta (ed.) (2003), "Mosaic or Melting Pot? Living with Diversity", Proceedings of a Conference on Cultural Diversity, Dublin 2003, Dublin: Irish National Committee, The European Cultural Foundation.
67. Inter-departmental working group on the integration of refugees in Ireland (1999), *Integration: A Two Way Process*, Dublin: Department of Justice, Equality & Law Reform.
68. International Organisation for Migration (2004), *Return Migration: Policies and Practices*, Geneva: International Organisation for Migration.
69. International Organisation for Migration (2002), *International Comparative Study of Migration Legislation and Practice*, Dublin: Department of Justice, Equality and Law Reform.
70. Irish Council for Civil Liberties Women's Committee (2000), *Women and the Refugee Experience: Towards a Statement of Best Practice*, Dublin: Irish Council for Civil Liberties Women's Committee.

71. Irish Council for International Students (2002), "Chinese Students in Ireland: New Opportunities, New Needs, New Challenges": Papers from the ICOS Seminar January 2001, Dublin: Irish Council for International Students.
72. Irish Human Rights Commission, National Consultative Committee on Racism and Interculturalism (2004), "Safeguarding the Rights of Migrant Workers and their Families". A Review of EU and International Standards: Implications for Policy in Ireland, Dublin: Irish Human Rights Commission, National Consultative Committee on Racism and Interculturalism.
73. Irish Refugee Council (2001), "Direct Provision and Dispersal: 18 Months On", Dublin: Irish Refugee Council.
74. Le Voy, M., N. Verbruggen, J. Wets (2005), "Undocumented Migrant Workers in Europe", Leuven: Platform for International Cooperation on Undocumented Migrants (PICUM) and Hoger Instituut voor de Arbeid (HIVA).
75. Kelleher Associates (2004), *Voices of Immigrants: The Challenges of Inclusion*, Dublin: Immigrant Council of Ireland.
76. Kelly, Nuala (2004), *Work Permits in Ireland: A Recommendation for Change*, Dublin: Migrant Rights Centre, Ireland.
77. Kenna, Padraig and Padraig MacNeela (2004), *Housing and Refugees: The Real Picture*, Dublin: Vincentian Refugee Centre.
78. Kenny, C. (2003), *Asylum in Ireland: the Appeal Stage*, Dublin: Irish Refugee Council.
79. King, Dervla (2004), *Immigration and Citizenship in Ireland*, Dublin: Children's Rights Alliance.
80. Krieger, Hubert (2003), *The New Migration Puzzle: East-West Migration in an Enlarging European Union*, Dublin: European Foundation for the Improvement of Living and Working Conditions.
81. Lentin, R. (2001), "Responding to the Racialisation of Irishness: Disavowed Multiculturalism and its Discontents" in *Sociological Research Online*, Vol. 5, No. 4.
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