

## ANNEX

### BRIEFING NOTE

#### ASYLUM –SOME KEY FACTS EMERGING FROM OUR DETERMINATION PROCESS

The following is the reality in relation to the asylum claims being received in the State.

- (i) Commentators have in the past claimed that **Ireland's recognition rate for refugee status** is less generous than other countries. This is not the case based on comparative data available to my Department for EU States for first instance decisions for 2004 which shows the recognition rate for refugee status to be as follows:

IGC State	2003		2004	
	Total no. of applications	Recognition Rate	Total no. of applications	Recognition Rate
Austria	32364	5.3%	24676	20.2%
<b>Belgium</b>	<b>16940</b>	<b>5.4%</b>	<b>15357</b>	-
<b>Denmark</b>	<b>4593</b>	<b>14.3%</b>	<b>3222</b>	<b>4.9%</b>
Finland	3221	0.2%	3861	0.6%
France	61993	9.9%	65614	9.3%
Germany	50563	3.3%	35607	3.3%
<b>Ireland</b>	<b>7900</b>	<b>4.2%</b>	<b>4766</b>	<b>6.2%</b>
Netherlands	13402	1.8%	9782	3.1%
<b>Spain</b>	<b>5918</b>	<b>3.4%</b>	<b>5398</b>	<b>2.6%</b>
Sweden	31355	1.4%	23161	1.1%
Norway	15613	3.6%	7945	3.6%
United Kingdom	60047	6.4%	40202	3.0%

- (ii) In the case of **asylum applications from Nigerian nationals**, which represents the highest source country in terms of asylum applications (some 37% of applications in 2004 and 41% in 2005), comparative statistics also indicate that our recognition rate at first instance is very much in line with a number of other EU States which receive large high numbers of applications from nationals of Nigeria. Ireland received the second highest number of asylum applications in main industrialised countries from nationals of Nigeria in 2004. The recognition rate position at first instance for 2004 is as follows:

IGC State	2003			2004		
	Nigerian applicants	% of total applications	Recognition Rate	Nigerian applicants	% of total applications	Recognition Rate
<b>Austria</b>	<b>1846</b>	<b>6%</b>	<b>0.3%</b>	<b>1829</b>	<b>7%</b>	<b>0.3%</b>
Belgium	194	1%	0%	177	1%	-
Canada	641	2%	47.1%	554	2%	49.9%
Denmark	61	1%	0%	88	3%	2.3%
Finland	77	2%	0%	92	2%	0%
France	1262	2%	0.8%	1671	3%	2.0%
Germany	1051	2%	0%	1130	3%	0%
<b>Ireland</b>	<b>3110</b>	<b>39%</b>	<b>1.0%</b>	<b>1776</b>	<b>37%</b>	<b>0.6%</b>
Netherlands	414	3%	0.2%	223	2%	0.6%
<b>Spain</b>	<b>1688</b>	<b>29%</b>	<b>0.2%</b>	<b>1030</b>	<b>19%</b>	<b>0.1%</b>
Sweden	452	1%	0%	429	2%	0%
United Kingdom	1112	2%	1.1%	1175	3%	-

(iii) **Most asylum applications (more than 90%) are found not to meet the criteria for refugee protection.**

By way of illustration, since January 2005, prioritised asylum claims from nationals of Nigeria, Romania, Bulgaria, Croatia and South Africa (representing 46% of all applications) have been processed in accelerated procedures by the independent determination bodies (Refugee Applications Commissioner and Refugee Appeals Tribunal). This has resulted in average processing times of 15 working days at first instance from initial application and 14 working days at appeals stage.

Applicants in the prioritised stream receive the same comprehensive asylum interview at first instance that every other application receives and are also entitled to an appeal.

Our analysis of the accelerated process has shown that;

- *of the 365 decisions issued so far by ORAC, some 359 have been refused.*
- *of the 136 decisions issued by the RAT, some 134 have upheld the earlier decision of the ORAC that the applicant is NOT a refugee.*
- *some 66% of negative ORAC decisions (some 62% of nationals of Nigeria and all Romanians, Croatians and South Africans) are based on grounds which give rise to a papers appeal in the RAT such as where an application showed either no or a minimal basis for the contention that an applicant is a refugee.*

(iv) The accelerated procedure includes the use of dedicated accommodation centres and a requirement for residents in these centres

to report daily to Reception and Integration Agency staff. So far our statistics indicate that **some 33% of asylum seekers are not complying with this daily reporting requirement.** *Broken down by nationality this represents 31% of Nigerian nationals; 58% of Romania nationals; 25% of Croatian nationals and 33% of nationals from South Africa.*

(v) The accelerated procedure also requires failed asylum applicants to report to the Garda National Immigration Bureau as part of the pre-deportation process. The requirement to report is to ensure that the Garda authorities are aware of the location of the persons concerned with a view to availability for deportation if required. **46% of those who have failed the asylum process and who are seeking leave to remain in the State have not complied with this daily signing requirement** which is broken down as follows: Nigerians 40%; Romanians 91%; Croatians 75%; South Africans 50%.

(vi) An analysis of claims from those seeking protection who have been processed under the accelerated procedure and who have been found not to be in need of protection illustrate a number of common grounds. See Press Release.

(vii) Further evidence of abuse is illustrated from an analysis of statistics for people who travelled to the State by air over the past twelve months but who claimed to the Refugee Applications Commissioner (ORAC) to have no travel documents in their possession on arrival. Some 88% of the 1174 Nigerian nationals without documents stated that they travelled by air at some stage in their journey. Large numbers of other nationals are also arriving without travel documents but indicate to ORAC that they travelled by air: Romania 40%; DR Congo 100%; Ukraine 42%; Moldova 33%.

In the case of the accelerated procedure for asylum applicants which has been in operation since 25 January, 2005, persons travelling by air reported the absence of travel documents to ORAC as follows: Nigerians 80%, Romanians 76%, South Africans 36%, Croatians 44%.

- With no direct flights to Ireland from any of these countries and with there being no possibility of embarking on a commercial airline without a travel document, the conclusion has to be that many people are destroying or concealing their travel documents in order to make it more difficult for immigration and refugee authorities to carry out proper identification checks.

## **OTHER EXAMPLES OF IMMIGRATION ABUSE**

A series of joint operations between the GNIB and the UK authorities have thrown up cases of flagrant and often simultaneous abuse of national immigration law. These include individuals intercepted at airports in Belfast and Dublin carrying forged passports/travel documents and persons found to have multiple identities. Several non-nationals were also discovered to have current and previous asylum applications in the United Kingdom and Ireland again in some cases using multiple identities to pursue multiple asylum claims.

Since July 2004, greater co-operation between the Garda National Immigration Bureau and inspectors from the Department of Social and Family Affairs have given rise to total savings of nearly €3 million in abusive claims.

## **ASYLUM PROCESS – FAIR AND TRANSPARENT PROCEDURES**

The reality is that the State has a comprehensive asylum process in place which compares well with most other industrialised countries.

- Asylum applications are processed in accordance with the Refugee Act, 1996 which fully meets the States obligations under the 1951 Geneva Convention relating to the status of refugees including the safeguards on refoulement which are dealt with at leave to remain stage.
- Two independent agencies are in place namely the Office of the Refugee Applications Commissioner and the Refugee Appeals Tribunal in order to process asylum applications at first instance and appeals respectively with in the region of some 400 staff involved in case processing and related functions in these agencies.
- The staff of our asylum agencies is trained by the UNHCR on an ongoing basis and their determination procedures are fully in compliance with UNHCR standards.
- Comprehensive legal advice and assistance is provided by the Refugee Legal Service at all stages in the asylum process with ongoing efforts being made to increase take up rates at first instance in particular. This compares to some other States where legal assistance can be restricted to the appeals stage of the asylum process. €m has been allocated to the RLS in 2005.
- Comprehensive translation and interpretation services are available to asylum applicants in some 26 languages on an ongoing basis and in many more languages/dialects as required.

## **PRIORITISATION OF ASYLUM CASELOAD AND APPLICATION OF SAFE COUNTRY OF ORIGIN CONCEPT**

The Refugee Act, 1996 is primarily about setting the standards and safeguards to apply in processing asylum applications both in the area of first instance decisions and appeals. However, a number of provisions have been included to enable the asylum caseload to be managed efficiently including

- The ability of the Minister to issue directions to the **determination agencies to give priority to certain classes of application** based on a number of criteria such as country of origin of an applicant, where an application is from a country designated as a safe country of origin, where an application does not show any grounds for the contention that an applicant is a refugee or the likelihood that an application is well founded.
- **Nigeria has NOT been designated as a safe country of origin.** There are a number of other grounds on which asylum applications can be prioritised such as the grounds of an applications; country of origin of applicants and where applications do not show on their face grounds for the contention that an applicant is a refugee. Nigerian asylum applications are prioritised since December 2003 on the basis that Nigeria has for a number of years been the highest source country for asylum applications representing some 37% of our caseload in 2004 and some 41% in 2005 to date and also has a very low recognition rate overall . Giving priority to the largest part of the asylum caseload makes sense while at the same time ensuring that other cases are also processed as expeditiously as possible.
- The **designation of countries as safe countries of origin** based on clear criteria set out in the 1996 Act including where a country generally adheres to international human rights standards, has a democratic political system and respects the rule of law. Romania, Bulgaria, Croatia and South Africa have been designated as safe countries of origin. *Claims have been made that nationals of such countries who claim asylum in the State are not entitled to the full protections of the Refugee Act, 1996. This is not the case.* Such persons continue to have a full merits consideration of their claims but it is for each such person to rebut the presumption that they are not in need of refugee protection. In addition, appeals in such cases are dealt with on the basis of the papers alone rather than an oral hearing. Such a procedure for non- oral hearings has been upheld by the Supreme Court. **The safe country of origin concept as a case management tool is fully recognised by the UNHCR and is also provided for in EU legislation. It is also applied in a number of other EU States such as the United Kingdom and Germany.**

## **ASYLUM PROCESSING AND TIMESCALES**

Significant improvements have been achieved in terms of the reduction in the number of asylum applications outstanding and processing timescales.

### **Cases outstanding and decisions processed**

- The **processing backlog has essentially been eliminated** with some 3000 cases awaiting a decision as compared to some 5,542 cases at the end of April 2004 and some 10,000 cases in 2000.
- Of these 3,000 cases **only 760 are over six months old** as compared with some 2864 in April 2004 and some 6,500 such cases in September 2001.
- In 2004, the ORAC processed some 7,121 cases while RAT made decisions in respect of some 6,520 cases.

### **Processing times and accelerated procedures**

- Prioritised asylum applications (mainly from Nigeria, Romania, Bulgaria, Croatia and South Africa) have current average processing times of 15 working days at first instance and 14 working days at appeals stage. These timescales are being achieved under a new accelerated process introduced in January 2005 and which cover some 46% of all asylum applications.

## **DEPORTATION PROCESS – KEY FACTS**

*The State's deportation process is based on comprehensive statutory safeguards.* It is not simply the case that the GNIB arrive at a deportees' homes or schools and "whisks them away" to their country of origin without their first being given the opportunity to have protection and any humanitarian needs assessed. A comprehensive set of safeguards is in place, all based on statute, with which the State must comply before any person can be deported. In the case of a person who does not qualify for refugee status and who has no other protection needs, this includes

- A first instance independent consideration of an asylum application by the independent Refugee Applications Commissioner;
- An appeal to an independent Refugee Appeals Tribunal;
- An entitlement to make representations to the Minister for Justice, Equality and Law Reform as to why he/she should not be deported;
- Consideration of any representations made;
- Consideration of refoulement grounds laid down in both domestic and international law;
- The possibility of returning voluntarily to a country of origin with assistance provided with travel costs and arrangements by the International Organisation for Migration under return schemes implemented on behalf of the State;
- The possibility of travelling voluntarily on a deportation order – without enforcement;
- Access to judicial review proceedings.

### **It is only then that the possibility of an enforced deportation exists.**

In relation to deportations to Nigeria, Ireland deports fewer people to Nigeria than some other EU countries with high numbers of Nigerian asylum applications. Comparative statistics are as follows:

## DEPORTATION STATISTICS

**Deportations of Nigerian nationals (all categories: rejected Asylum Seekers, illegal immigrants, others) - Ireland and Other Countries – 2003 and 2004 figures**

<b>COUNTRY</b>	<b>2003</b>	<b>2004</b>
<b>Ireland</b>	63	77
<b>Spain</b>	1,209	n/a
<b>Austria</b>	97	112
<b>Netherlands</b>	704	648
<b>United Kingdom</b>	295*	340*
<b>Sweden</b>	45*	136
<b>Germany</b>	454	555
<b>Norway</b>	47	164

\*Asylum Seekers only